



Federal Register

10-16-06

Vol. 71 No. 199

Monday

Oct. 16, 2006

Pages 60657-60804



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1792

RIN 0572-AC01

Seismic Safety

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service, an agency which administers the U.S. Department of Agriculture's Rural Development Utilities Programs (hereinafter "USDA Rural Development" or the "Agency,") is amending its regulations to update the seismic safety requirements of the Agency. These amendments will provide Agency borrowers (including Rural Telephone Bank borrowers), grant recipients, and the public with updated rules for compliance with seismic safety requirements for new building construction using loan, grant, or guaranteed funds of the Agency, or funds provided through lien accommodations or subordinations approved by the Agency.

DATES: This rule will become effective November 30, 2006, unless we receive written adverse comments or a written notice of intent to submit adverse comments on or before November 15, 2006. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held.

Written comments must be received by USDA Rural Development or carry a postmark or equivalent no later than November 15, 2006.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse

comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Rural Utilities Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RUS-06-Agency-0049 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 your comment addressed to Richard Annan, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Avenue, STOP 1522, Room 5159, Washington, DC 20250-1522. Please state that your comment refers to Docket No. RUS-06-Agency-0049.

Other Information: Additional information about Rural Development and its programs is available on the Internet at <http://www.rurdev.usda.gov/index.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Heald, Structural Engineer, Transmission Branch, Electric Staff Division, USDA Rural Development, 1400 Independence Avenue, SW., STOP 1569, Washington, DC 20250-1569. Telephone: (202) 720-9102. Fax: (202) 720-7491.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A notice of final rule entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) exempted Agency loans and loan guarantees from coverage under this order.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

Executive Order 13132, Federalism

This rule will not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, consultation with States is not required.

Regulatory Flexibility Act Certification

The Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, no further analysis is required. This rule serves to update the existing regulation and should result in modest cost savings and ease the regulatory compliance burden for affected applicants.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the rule have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572-0099, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

National Environmental Policy Act Certification

The Administrator of the Agency has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The programs covered by this rule are listed in the Catalog of Federal Domestic Assistance programs under numbers 10.850, Rural Electrification Loans and Loan Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees; 10.852, Rural Telephone Bank Loans; 10.857, Rural Broadband Access Loans and Loan Guarantees, 10.760, Water and Waste Disposal System for Rural Communities; 10.764, Resource Conservation Development Loans, and 10.765, Watershed Protection and Flood Prevention Loans.

This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Telephone: (202) 512-1800.

Unfunded Mandates

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

Background

In the mid eighties, the Federal Emergency Management Agency (FEMA) contracted the Building Seismic Safety Council (BSSC) to develop the National Earthquake Hazards Reduction Program (NEHRP) Provisions for new buildings. One of the primary goals of the program is to reduce or mitigate losses from earthquakes. The NEHRP *Recommended Provisions for Seismic Regulations for New Buildings and Other Structures* are recommended provisions that have been adopted in recent times by model codes and standards. The first edition of the NEHRP Provisions was dated 1985. The document is updated on a 3-year cycle. The 2000 edition of the NEHRP provisions is the fifth update of the document.

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that all new federally owned, leased, assisted, and other regulated buildings be designed and constructed in accordance with the appropriate seismic standards. The Interagency Committee on Seismic Safety in Construction (ICSSC) has recommended the use of building codes which are substantially equivalent to the *2000 National Earthquake Hazards Reduction Program Provisions for the*

Development of Seismic Regulations for New Buildings (commonly called the NEHRP Provisions).

The National Institute of Standards and Technology (NTIS) had previously contracted to evaluate the equivalency of the latest edition of the NEHRP Provisions available at the time and the latest editions of national building codes and standards. The four previous comparisons involved the *BOCA National Building Code (BOCA/NBC)*, the *Standard Building Code (SBC)*, the *Uniform Building Code (UBC)*, ASCE 7, *Minimum Design Loads for Buildings and Other Structures (ASCE 7)* and *CABO One- and Two-Family Dwelling Code (OTFDC)*, the *International Building Code (IBC)*, and the *International Residential Code (IRC)*.

NTIS contracted to determine whether or not the seismic and material design provisions of the *International Building Code (IBC)*, 2003 edition; the *NFPA 5000 Building Construction and Safety Code*, 2003 edition; the *International Residential Code for One- and Two-Family Dwellings*, 2003 edition, and ASCE 7-02, *Minimum Design Loads for Buildings and Other Structures*, are substantially equivalent to, or exceed, the 2000 NEHRP Provisions.

For purposes of USDA Rural Development, the following documents have been found to be substantially equivalent to the 2000 NEHRP: *International Building Code (IBC)*, 2003 edition; the *NFPA 5000 Building Construction and Safety Code*, 2003 edition, and ASCE 7-02, *Minimum Design Loads for Buildings and Other Structures*. Although these documents were found to be equivalent in intent and equivalent in design values, there were some exceptions within each document. Because of the structure of our agency requirements, it is recommended that the above documents be accepted as substantially equivalent.

List of Subjects in 7 CFR Part 1792

Buildings and facilities, Electric power, Grant programs, Loan programs, Reporting and recordkeeping requirements, Rural area, Seismic safety, Telephone.

■ For reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is amended as follows:

PART 1792—COMPLIANCE WITH OTHER FEDERAL STATUTES, REGULATIONS, AND EXECUTIVE ORDERS

■ 1. The authority citation for part 1792 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 42 U.S.C. 7701 *et seq.*; E.O. 12699 (3 CFR, 1990 Comp., p. 269).

■ 2. Section 1792.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1792.103 Seismic design and construction standards for new buildings.

(a) In the design and construction of federally assisted buildings, the borrowers and grant recipients must utilize the seismic provisions of the most recent edition of those standards and practices that are substantially equivalent to or exceed the seismic safety level in the 2000 edition of the NEHRP Recommended Provisions for the Development of Seismic Regulation for New Buildings.

(b) Each of the following model codes or standards provides a level of seismic safety substantially equivalent to that provided by the 2000 NEHRP Recommended Provisions and are appropriate for federally assisted new building construction:

(1) *2003 NFPA 5000 Building Construction and Safety Code*. Copies of the book are available from the NFPA (National Fire Protection Association), 1 Batterymarch Park, Quincy, MA 02269-7471. Telephone: (617) 770-3000. Fax: (617) 770-0700.

(2) 2002 American Society of Civil Engineers (ASCE) 7, *Minimum Design Loads for Buildings and Other Structures*. Copies are available from the American Society of Civil Engineers, Publications Marketing Department, 1801 Alexander Bell Drive, Reston, VA 20191-4400. E-mail: marketing@asce.org. Telephone: (800) 548-2723. Fax: (703) 295-6211.

(3) *2003 International Code Council (ICC) International Building Code (IBC)*. Copies of the book or CD-ROM are available from the International Conference of Building Officials, 4051 West Flossmoor Rd., Country Club Hill, IL 60478. Telephone: (800) 786-4452. Fax: (800) 214-7167.

* * * * *

Dated: September 27, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E6-17065 Filed 10-13-06; 8:45 am]

BILLING CODE 3410-15-P

NUCLEAR REGULATORY COMMISSION**10 CFR Part 72**

RIN 3150-AH98

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 3**AGENCY:** Nuclear Regulatory Commission.**ACTION:** Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Holtec International HI-STORM 100 cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 3 to Certificate of Compliance Number 1014. Amendment No. 3 will revise Technical Specification (TS) 3.1.3, to eliminate cooling of the Multi-Purpose Canister (MPC) cavity prior to reflood with water, as part of cask unloading operations; TS 3.3.1, to allow linear interpolation between minimal soluble boron concentrations, for certain fuel enrichments in the MPC-32/32F; Appendix B, Section 1, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes will be made to incorporate minor editorial corrections.

DATES: The final rule is effective January 2, 2007, unless significant adverse comments are received by November 15, 2006. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH98) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

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

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

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

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML062130434, ML061980040, and ML062130467, respectively.

CoC No. 1014, the revised TS, the underlying SER for Amendment No. 3, and the Environmental Assessment (EA), are available for inspection at the NRC PDR, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

FOR FURTHER INFORMATION CONTACT:

Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION:**Background**

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that "[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPA states, in part, that "[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor."

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR part 72 entitled "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72, entitled "Approval of Spent Fuel Storage Casks," containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241) that approved the HI-STORM 100 cask system design, and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1014.

Discussion

On November 7, 2005, and as supplemented on April 30, 2006, the certificate holder, Holtec International, submitted an application to the NRC to amend the HI-STORM 100 cask system. The application requested changes to eliminate cooling of the MPC cavity prior to reflood with water as part of cask unloading operations, changes to allow linear interpolation between minimal soluble boron concentrations for certain fuel enrichments in the MPC-32/32F, modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware, changes to permit the storage of

pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length, and other changes to incorporate minor editorial corrections. No other changes to the HI-STORM 100 cask system were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. The NRC staff also has determined that there continues to be reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the HI-STORM 100 cask system listing in 10 CFR 72.214 by adding Amendment No. 3 to CoC No. 1014. The amendment consists of changes to the TS as described above. The particular TS which are changed are identified in the NRC staff's SER for Amendment No. 3.

The amended HI-STORM 100 cask system, when used under the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

Section 72.214 List of approved spent fuel storage casks.

Certificate No. 1014 is revised by adding the effective date of Amendment Number 3.

Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC No. 1014 and does not include other aspects of the HI-STORM 100 cask system. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on January 2, 2007. However, if the NRC receives significant adverse comments by November 15, 2006, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments, published elsewhere in this issue of the **Federal Register**, in a subsequent final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to

the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the HI-STORM 100 cask system design listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does

not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, will not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will amend the CoC for the HI-STORM 100 cask system within the list of approved spent fuel storage casks that power-reactor licensees can use to store spent fuel at reactor sites under a general license. Amendment No. 3 will modify the present cask system design by revising TS 3.1.3 to eliminate cooling of the MPC cavity prior to reflood with water as part of cask unloading operations; TS 3.3.1 to allow linear interpolation between minimal soluble boron concentrations for certain fuel enrichments in the MPC-32/32F; Appendix B, Section 1, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes will be made to incorporate minor editorial corrections.

The EA and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the EA and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150-0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power-reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. On May 1, 2000 (65 FR 25241), the NRC issued an amendment to part 72 that approved the HI-STORM 100 cask system design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214. On November 7, 2005, and as supplemented on April 30, 2006, the certificate holder, Holtec International, submitted an application to the NRC to amend the HI-STORM 100 cask system. The amendment will revise TS 3.1.3 to eliminate cooling of the MPC cavity prior to reflood with water as part of cask unloading operations; TS 3.3.1 to allow linear interpolation between minimal soluble boron concentrations for certain fuel enrichments in the MPC-32/32F; Appendix B, Section 1, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes will be made to incorporate minor editorial corrections. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate this problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This

direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Holtec International. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Public Law 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Public Law 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Public Law 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Public Law 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Public Law 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Public Law 109-58, 119 Stat. 806-810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Public Law 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Public Law 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Public Law 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Public Law 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.
Initial Certificate Effective Date: June 1, 2000.
Amendment Number 1 Effective Date: July 15, 2002.
Amendment Number 2 Effective Date: June 7, 2005.
Amendment Number 3 Effective Date: January 2, 2007.
SAR Submitted by: Holtec International.
SAR Title: Final Safety Analysis Report for the HI-STORM 100 Cask System.
Docket Number: 72-1014.
Certificate Expiration Date: June 1, 2020.

Model Number: HI-STORM 100.

* * * * *

Dated at Rockville, Maryland, this 22nd day of September, 2006.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Acting Executive Director for Operations.

[FR Doc. E6-17079 Filed 10-13-06; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket No. EE-TP-98-550]

RIN 1904-AA85

Energy Conservation Program: Test Procedures for Distribution Transformers; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical corrections.

SUMMARY: The Department of Energy (DOE or the Department) published a final rule on April 27, 2006, amending Part 431 to prescribe test procedures and other provisions for distribution transformers, pursuant to sections 323(b)(10) and 346(a) of the Energy Policy and Conservation Act, as amended. (42 U.S.C. 6293(b)(10) and 6317(a)) This document corrects three typographical errors in the final rule.

DATES: This correction is effective October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Antonio Bouza, U.S. Department of Energy, Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-4563, e-mail: *antonio.bouza@ee.doe.gov*.

Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-9507, e-mail: *Francine.Pinto@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: The final rule that is the subject of this correction document established (1) Test procedures for measuring the energy efficiency of distribution transformers, (2) definitions to delineate the products covered by the test procedures, (3) provisions manufacturers must use to implement the test procedures, (4) calculation methods for determining the

efficiency of distribution transformers, and (5) enforcement provisions for this equipment. 71 FR 24971 (April 27, 2006).

Need for Corrections

As published in the final rule, the definition for the term “excitation current” which can also be referred to as “no-load current” contains a typographical error that may prove to be misleading, and needs to be corrected. In the final rule, the conjunction “or” appearing between the terms “excitation current” and “no-load current” was italicized, such that the two terms *excitation current* and *no-load current* appeared as one continuous phrase (i.e., *excitation current or no-load current*). The Department is concerned that the italicization of the word “or” may lead to confusion about the defined term. This technical correction document removes the italicization of the word “or.” The remainder of the definition (i.e., “means the current that flows in any winding used to excite the transformer when all other windings are open-circuited”) was correct in the final rule and is not amended by this technical correction.

In a comment submitted after the publication of the final rule, NEMA brought to the Department’s attention two typographical errors that have an impact on the calculation of distribution transformer efficiency and must be corrected. (NEMA, No. 61 at p. 1) In the final rule notice, Equation 5-1 was given as:

$$P_{lc} = P_{lc2} \left[\frac{P_{os}}{P_{or}} \right] = P_{lc2} L^2$$

And an explanation of one of the terms in equation 5-1, P_{os} , was given as follows:

P_{os} is the specified energy efficiency load level, where, $P_{os} = P_{or} L^2$, and

NEMA determined that there are typographical errors in both equation 5-1 and the explanation of the term P_{os} . The Department carefully reviewed this comment, and agrees with NEMA’s determination. In equation 5-1, the quantity contained in the square brackets should be squared (i.e., raised to the second power). In the explanation of the term P_{os} , the variable represented by the letter “L” should not be squared. These errors were present in the Department’s previous supplemental notice of proposed rulemaking for this test procedure (69 FR 45532), but were not identified at that time.

Today’s technical correction document amends equation 5-1, raising the contents of the square brackets to

the second power, so the corrected equation reads as follows:

$$P_{lc} = P_{lc2} \left[\frac{P_{os}}{P_{or}} \right]^2 = P_{lc2} L^2$$

Similarly, this technical correction document amends the explanation of the term P_{os} to remove the square from the variable L, so the corrected equation reads as follows:

P_{os} is the specified energy efficiency load level, where $P_{os} = P_{or} L$, and

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Distribution transformers, Energy conservation.

■ Accordingly, 10 CFR part 431 is amended by making the following technical corrections:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291-6317.

■ 2. In § 431.192, revise the definition of “excitation current” to read as follows:

§ 431.192 Definitions.

* * * * *

Excitation current or no-load current means the current that flows in any winding used to excite the transformer when all other windings are open-circuited.

* * * * *

■ 3. In section 5.1 of Appendix A to Subpart K of Part 431, revise equation 5-1 and the explanation for the term P_{os} to read as follows:

Appendix A to Subpart K of Part 431—Uniform Test Method for Measuring the Energy Consumption of Distribution Transformers

* * * * *

5.1 Output Loading Level Adjustment.

* * * * *

$$P_{lc} = P_{lc2} \left[\frac{P_{os}}{P_{or}} \right]^2 = P_{lc2} L^2 \quad (5-1)$$

Where:

* * * * *

P_{os} is the specified energy efficiency load level, where $P_{os} = P_{or} L$, and

* * * * *

Issued in Washington, DC, on October 2, 2006.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E6-16998 Filed 10-13-06; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25896; Directorate Identifier 2006-NE-33-AD; Amendment 39-14775; AD 2006-20-06]

RIN 2120-AA64

Airworthiness Directives; General Electric Company CF34-10E Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2006-20-06. That AD applies to General Electric Company (GE) CF34-10E series turbofan engines. We published AD 2006-20-06 in the *Federal Register* on September 29, 2006 (71 FR 57403). The issue date of the AD was inadvertently omitted. This document adds the AD issue date. In all other respects, the original document remains the same.

DATES: *Effective Date:* Effective October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Tara Fitzgerald, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238-7130; fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: A final rule AD, FR Doc. 06-8284, that applies to GE CF34-10E series turbofan engines was published in the *Federal Register* on September 29, 2006 (71 FR 57403). The following correction is needed:

§ 39.13 [Corrected]

■ On page 57405, in the first column, after compliance paragraph (q), add "Issued in Burlington, Massachusetts, on September 21, 2006."

Issued in Burlington, MA, on October 6, 2006.

Peter A. White,

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

[FR Doc. E6-17007 Filed 10-13-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 433

[CMS-2231-F]

RIN 0938-A031

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2006 and Fiscal Year 2007

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule sets forth the methodology and process used to compute and issue each State's allotments for fiscal years (FY) 2006 and FY 2007 that are available to pay Medicare Part B premiums for qualifying individuals. It also provides the final FY 2006 allotments and the preliminary FY 2007 allotments determined under this methodology.

We are also confirming the April 28, 2006 interim final rule as final.

DATES: Effective November 15, 2006, the interim rule amending 42 CFR part 433, which was published on April 28, 2006 (71 FR 25085), is adopted as final.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 786-2019.

SUPPLEMENTARY INFORMATION:

I. Background

A. Allotments Prior to FY 2005

Section 1902 of the Social Security Act (the Act) sets forth the requirements for State plans for medical assistance. Before August 5, 1997, section 1902(a)(10)(E) of the Act specified that the State Medicaid plan must provide for some or all types of Medicare cost sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included qualified Medicare beneficiaries (QMBs), specified low-income Medicare beneficiaries (SLMBs), and qualified disabled and working individuals (QDWIs).

A QMB is an individual entitled to Medicare Part A with income at or below the Federal poverty line (FPL) and resources below \$4,000 for an individual and \$6,000 for a couple. A SLMB is an individual who meets the QMB criteria, except that his or her income is above 100 percent of the FPL and does not exceed 120 percent of the FPL. A QDWI is a disabled individual

who is entitled to enroll in Medicare Part A under section 1818A of the Act, whose income does not exceed 200 percent of the FPL for a family of the size involved, whose resources do not exceed twice the amount allowed under the Supplementary Security Income (SSI) program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

Section 4732 of the Balanced Budget Act of 1997 (BBA), enacted on August 5, 1997, amended section 1902(a)(10)(E) of the Act to require States to provide for Medicaid payment of the Medicare Part B premiums for two additional eligibility groups of low-income Medicare beneficiaries, referred to as qualifying individuals (QIs).

Specifically, a new section 1902(a)(10)(E)(iv)(I) of the Act was added, under which States must pay the full amount of the Medicare Part B premium for qualifying individuals who are eligible QMBs but for the fact that their income level is at least 120 percent of the FPL but less than 135 percent of the FPL for a family of the size involved. These individuals cannot otherwise be eligible for medical assistance under the approved State Medicaid plan. The second group of QIs added under section 1902(a)(10)(E)(iv)(II) of the Act includes Medicare beneficiaries who would be QMBs except that their income is at least 135 percent but less than 175 percent of the FPL for a family of the size involved, who are not otherwise eligible for Medicaid under the approved State plan. These QIs were eligible for only a portion of Medicare cost sharing consisting of a percentage of the increase in the Medicare Part B premium attributable to the shift of Medicare home health coverage from Part A to Part B (as provided in section 4611 of the BBA).

Coverage of the second group of QIs ended on December 31, 2002, and in 2003, section 401 of the Welfare Reform Bill (Pub. L. 108-89), enacted on October 1, 2003, eliminated reference to the QI-2 benefit. In each of the years 2002 and 2003, continuing resolutions extended the coverage of the first group of QIs (whose income is at least 120 percent but less than 135 percent of the Federal poverty line) through the following fiscal year, but maintained the annual funding at the FY 2002 level.

In 2004, Public Law 108-448 was enacted, which continued coverage of this group through September 30, 2005, again with no change in funding.

The BBA also added a new section 1933 to the Act to provide for Medicaid payment of Medicare Part B premiums

for QIs. (The previous section 1933 was re-designated as section 1934.)

Section 1933(a) of the Act specifies that a State plan must provide, through a State plan amendment, for medical assistance to pay for the cost of Medicare cost-sharing on behalf of QIs who are selected to receive assistance. Section 1933(b) of the Act sets forth the rules that States must follow in selecting QIs and providing payment for Medicare Part B premiums. Specifically, the State must permit all qualifying individuals to apply for assistance and must select individuals on a first-come, first-served basis (that is, the State must select QIs in the order in which they apply). Under section 1933(b)(2)(B) of the Act, in selecting persons who will receive assistance in years after 1998, States must give preference to those individuals who received assistance as QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year and who continue to be (or become) QIs.

Under section 1933(b)(4) of the Act, persons selected to receive assistance in a calendar year are entitled to receive assistance for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year. Because the State's allotment is limited by law, section 1933(b)(3) of the Act provides that the State must limit the number of QIs so that the amount of assistance provided during the year is approximately equal to the allotment for that year.

Section 1933(c) of the Act limits the total amount of Federal funds available for payment of Part B premiums for QIs each fiscal year and specifies the formula that is to be used to determine an allotment for each State from this total amount. For States that executed a State plan amendment in accordance with section 1933(a) of the Act, a total of \$1.5 billion was allocated over 5 years as follows: \$200 million in FY 1998; \$250 million in FY 1999; \$300 million in FY 2000; \$350 million in FY 2001; and \$400 million in FY 2002. In 1999, the Department published a notice (64 FR 14931, March 29, 1999) to advise States of the methodology used to calculate allotments and each State's specific allotment for that year. Following that notice, there was no change in methodology and States have been notified annually of their allotments. We did not include the methodology for computing the allocation in our regulations. Although the BBA originally provided coverage of QIs through FY 2002, through several continuing resolutions, coverage has

been continued through the current fiscal year, but without any increase in total allocation over the FY 2002 level.

The Federal medical assistance percentage for Medicaid payment of Medicare Part B premiums for qualifying individuals is 100 percent for expenditures up to the amount of the State's allotment. No Federal funds are available for expenditures in excess of the State allotment amount. The Federal matching rate for administrative expenses associated with the payment of Medicare Part B premiums for QIs remains at the 50 percent matching level. Federal financial participation in the administrative expenses is not counted against the State's allotment.

The amount available for each fiscal year is to be allocated among States according to the formula set forth in section 1933(c)(2) of the Act. The formula provides for an amount to each State that is to be based on each State's share of the Secretary's estimate of the ratio of: (a) An amount equal to the total number of individuals in the State who meet all but the income requirements for QMBs, whose incomes are at least 120 percent but less than 135 percent of the Federal poverty line, and who are not otherwise eligible for Medicaid, to (b) the sum of all those individuals for all eligible States.

B. Allotments for FY 2005

In FY 2005, some States exhausted their FY 2005 allotments before the end of the fiscal year, which caused them to deny benefits to eligible persons under section 1933(b)(3) of the Act, while other States projected a surplus in their allotments. We asked those States that exhausted or expected to exhaust their FY 2005 allotments before the end of the fiscal year to project the amount of funds that would be required to grant eligibility to all eligible persons in their State, that is, their need. We also asked those States that did not expect to use their full allotments in FY 2005 to project the difference between the amount they expected to spend and their allotment, that is, their surplus. After all States reported these figures, it was evident that the total surplus exceeded the total need. In spite of there being adequate overall funding for the QI benefit, some eligible individuals would have been denied benefits due to the allocation methodology initially used to determine the FY 2005 allotments.

We believed that it was the clear intent of the statute to provide benefits to eligible persons up to the full amount of funds made available for the program. We attributed the difference between the surplus in available QI allotments

for some States and the need in other States in FY 2005 as due to the imprecision in the data that we used to provide States with their initial allocations under section 1933 of the Act. Therefore, on August 26, 2005 we published an interim final rule in the **Federal Register** (70 FR 50214) under which we compensated for this imprecision in order to enable States to enroll those QIs whom they would have been able to enroll had the data been more precise.

The interim final rule amended 42 CFR 433.10(c) to specify the formula and the data to be used to determine States' allotments and to revise, under certain circumstances, individual State allotments for a Federal fiscal year for the Medicaid payment of Medicare Part B premiums for qualifying individuals identified under section 1902(a)(10)(E)(iv) of the Act.

The FY 2005 allotments were determined by applying the U.S. Census Bureau data to the formula set forth in section 1933(c)(2) of the Act. However, the statute requires that the allocation of the fiscal year allotment be based upon a ratio of the amount of "total number of individuals described in section 1902(a)(10)(E)(iv) in the State" to the sum of these amounts for all States. Because this formula requires an estimate of an unknown number, that is, the number of individuals who could be QIs (rather than the number of individuals who were QIs in a previous period), our use of the Census Bureau data in the formula represented a rough proxy to attain the statutory number. Actual expenditure data, however, revealed that the Census Bureau data yielded an inappropriate distribution of the total appropriated fund as evidenced by the fact that several States projected significant shortfalls in their allotments, while many other States projected a significant surplus by the end of the fiscal year 2005. Census Bureau data were not accurate for the purpose of projecting States' needs because the data could not take into consideration all variables that contribute to QI eligibility and enrollment, such as resource levels and the application process itself.

While section 1933 of the Act requires the Secretary to estimate the allocation of the allotments among the States, it did not preclude a subsequent readjustment of that allocation, when it became clear that the data used for that estimate did not effectuate the statutory objective. The interim final rule published in the **Federal Register** on August 26, 2005 permitted in this specific circumstance a redistribution of surplus funds, as it was demonstrated that the States' projections and

estimates resulted in an inequitable initial allocation for FY 2005, such that some States were granted an allocation in excess of their total projected need, while the allocation granted to other States proved insufficient to meet their projected QI expenditures.

In the August 26, 2005 interim final rule, we codified the methodology we have been using to approximate the statutory formula for determining State allotments. However, since certain States projected a deficit in their allotment before the end of fiscal year 2005, the rule permitted fiscal year 2005 funds to be reallocated from the surplus States to the need States. The regulation specified the methodology for computing the annual allotments, and for reallocating funds in this circumstance. The formula used to reallocate funds was intended to minimize the impact on surplus States, to equitably distribute the total needed amount among those surplus States, and to meet the immediate needs for those States projecting deficits. At the time of the publication of the interim final rule on August 26, 2005, the authorization for the QI benefit expired at the end of calendar year 2005, and no additional funds were appropriated for the QI benefit beyond September 30, 2005; therefore, the regulation specified a sunset at the end of calendar year 2005.

C. Allotments for FY 2006 and FY 2007

On October 20, 2005 the "QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005" was enacted by the Congress (Pub. L. 109-91). In particular, section 101 of Public Law 109-91 extended the QI program through September 30, 2007 with no change in funding; that is, under this legislation \$400 million per fiscal year is appropriated for each of FY 2006 and FY 2007. Under section 101(c), the provisions of section 101 of Public Law 109-91 were effective as of September 30, 2005.

On April 28, 2006 we published an interim final rule with comment period in the **Federal Register** (71 FR 25085) which implemented the provisions of section 101 of Public Law 109-91 relating the QI program and QI allotments for FY 2006 and FY 2007. As indicated in that interim final rule, we believe that the clear intent of the statute is to provide benefits to eligible persons up to the full amount of funds made available for the program in each fiscal year. We recognized that because of the imprecision in data for computing the States' QI allotments for a fiscal year, some States may experience either surpluses or shortages in their FY 2006

and FY 2007 allotments. These FY 2006 and FY 2007 QI allotments attempt to compensate for the imprecision in data to permit shortage States to enroll more QIs than otherwise would have been possible.

II. Provisions of the Final Rule

We received no public comments on the April 28, 2006 interim final rule (71 FR 25085-25092).

This final rule amends § 433.10(c) to specify the formula, data, and process to be used for determining and issuing States' QI allotments. This methodology and process provides for an adjustment in the amounts of the QI allotments preliminarily determined for the Medicaid payment of Medicare Part B premiums for qualifying individuals identified under section 1902(a)(10)(E)(iv) of the Act.

Under the methodology and process described in this final rule for determining States' FY 2006 and FY 2007 QI allotments, "initial" FY 2006 and FY 2007 allotments are determined by applying U.S. Census Bureau data to the formula set forth in section 1933(c)(2) of the Act. The statute requires that the allocation of the fiscal year allotment be based upon a ratio of the amount of "total number of individuals described in section 1902(a)(10)(E)(iv) in the State" to the sum of these amounts for all States. Because this formula requires an estimate of an unknown number, that is, the number of individuals who could be QIs (rather than the number of individuals who were QIs in a previous period), our use of the Census Bureau data in the formula represents a proxy to attain the statutory number. Use of the Census Bureau data may yield an inappropriate distribution of the total appropriated funds resulting in significant shortfalls in the projected allotments for some States and significant surpluses by the end of the fiscal year for other States. Census Bureau data may not be sufficiently accurate for the purpose of projecting States' needs because the data cannot take into consideration all variables that contribute to QI eligibility and enrollment, such as resource levels and the application process itself. While section 1933 of the Act requires the Secretary to estimate the allocation of the allotments among the States, it does not preclude a subsequent readjustment of that allocation, when it becomes clear that the data used for that estimate did not effectuate the statutory objective.

This final rule sets out the methodology and process we use for determining States' QI allotments for FY 2006 and FY 2007 that permits a

redistribution of surplus funds to States whose allotments, determined based only on the formula in section 1933 of the Act, would be insufficient to meet their projected QI expenditures for the fiscal year. In this final rule, we are codifying the methodology and process we will use to approximate the statutory formula for determining State allotments and making adjustments in such allotment, as appropriate.

In this final rule, we set forth a two step/two phase methodology/process for determining States' QI allotments for FY 2006 and FY 2007. Under the first step of phase one, an "initial" allocation is determined for each State under the formula specified in section 1933 of the Act and based only on the data obtained from the Census Bureau (the 3-year average of the number of Medicare beneficiaries in the State who are not enrolled in the Medicaid program but whose incomes are at least 120 percent of the FPL and less than 135 percent of the FPL). However, we further obtain States' projected QI expenditures for the fiscal year. We then compare the initial allocations for the fiscal year to the States' projected QI expenditures for the fiscal year to determine those States with a projected need (that is, those States whose initial allocation is less than their projected expenditures) or a projected surplus (that is, those States whose initial allocation is greater than the projected expenditures) for the fiscal year.

Under the second step of the process, we adjust the States' initial allocations by considering the States' projected QI expenditures for the fiscal year. This would be done by proportionately reducing the QI allotments of States with surpluses for the fiscal year by the amount of the total need for States that do not have sufficient QI allotments for the fiscal year.

In this final rule, we apply this methodology/process in two phases in each fiscal year. At the beginning of each fiscal year, we would determine the initial allocations based on the Census Bureau data, obtain States' projections of QI expenditures for the fiscal year, and make any adjustments based on the projected surpluses/needs for the fiscal year. The amount of the States' QI allotments determined under this first phase at the beginning of the fiscal year are considered the States' "preliminary" QI allotments for the fiscal year. Then, under phase two of the process during the fourth quarter of the fiscal year we obtain States' updated projected QI expenditures for the fiscal year. We then establish the "final" QI allotments for the fiscal year based on these updated projections.

As indicated in this final rule, the States' final QI allotments for a fiscal year are determined by comparing the initial QI allotments for the fiscal year (again which are calculated based on the Census Bureau data) to the States' updated projections of QI expenditures for the fiscal year; this establishes those States with a "final" projected need (the initial allocation is less than the updated projected expenditures) or a surplus (initial allocation is greater than the updated projected expenditures) for the fiscal year. Using the updated projected QI expenditures, we adjust the States' initial allocations by reducing the surplus States' initial allotments proportionately to meet the need States' deficits. This is the same methodology we used for determining the FY 2005 allotments as published in the interim final rule published on August 26, 2005 in the **Federal Register**; the only change was that in computing the FY 2006 and FY 2007 allotments, we are determining the preliminary allotments at the beginning of the fiscal year using States' preliminary projected QI expenditures, and then determining the final QI allotments later in the fiscal year using States' updated projected QI expenditures.

The formula used to reallocate the available funds to need States is intended to minimize the impact on surplus States, to equitably distribute the total needed amount among those surplus States, and to meet the needs for those States projecting deficits. Since under Public Law 109-91, the authorization for the QI benefit expires at the end of calendar year 2007, and currently no funds have been appropriated for the QI benefit beyond September 30, 2007, this regulation will sunset at the end of calendar year 2007. Should the Congress authorize an extension of the QI benefit and appropriate additional funds for allocation among the States, we will amend the sunset date in this regulation to take into account any extension.

The resulting initial allotments for FY 2006 are shown by State in the table below. In this table each column contains data defined as follows:

Chart—Final FY 2006 Qualified Individuals Allotments

Column A—State. Column A shows the name of each State.

Columns B through D show the determination of the States' Initial FY 2006 QI Allotments, based only on Census Bureau data.

Column B—Number of Individuals. Column B contains the estimated average number of Medicare beneficiaries for the years 2003 through 2005 who are not covered by Medicaid whose family income is between 120 and 135 percent of the poverty level for each State, in thousands, as obtained from the Census Bureau's Annual Social and Economic Supplement to the Current Population Survey through March of 2005.

Column C—Percentage of Total. Column C provides the percentage of total number of individuals for each State, determined as the Number of Individuals for the State in Column B divided by the sum of the Number of Individuals for all States in Column B.

Column D—Initial QI Allotment. Column D contains each State's Initial FY 2006 QI allotment, calculated as the State's Percentage of Total in Column C multiplied by \$400,000,000, the total amount available for FY 2006 for all States.

Columns E through J show the determination of the States' Final FY 2006 QI Allotments.

Column E—FY 2006 Estimated QI Expenditures. Column E contains the States' most recent estimates of their total QI expenditures for FY 2006 requested from States in August 2006.

Column F—Need (Difference). Column F contains the additional amount of QI allotment needed for those States whose estimated expenditures in Column E exceed their Initial FY 2006 QI allotments in Column D; for those

States, Column E shows the amount in Column E minus the amount in Column D. For other States, Column F shows "NA."

Column G—Reduction Pool for Non-Need States. Column G contains the amount of the pool of surplus FY 2006 QI allotments for those States that project they will not need all of their FY 2006 QI allotments (referred to as non-need States). For States whose estimates of QI expenditures for FY 2006 in Column E are equal to or less than their Initial FY 2006 QI allotments in Column D, Column G shows the amount in Column D minus the amount in Column E. For the States with a need, Column G shows "Need." The pool of excess QI allotments is equal to the sum of the amounts in Column G.

Column H—Percent of Total Non-Need States. Column H shows the percentage of the total excess FY 2006 allotments for each Non-Need State, determined as the amount for each Non-Need State in Column G divided by the sum of the amounts for all States in Column G.

Column I—Reduction for Non-Need States. Column I shows the amount of reduction to Non-Need States' Initial FY 2006 QI allotments in Column D in order to provide for the total need shown in Column F. The amount in Column I is determined as the percentage in Column H for Non-Need States multiplied by the sum of the need for all States from Column F.

Column J—Final FY 2006 QI Allotment. Column J contains the Preliminary FY 2006 QI allotment for each State. For States that need additional amounts based on their FY 2006 Estimated QI Expenditures in Column E, Column J is equal to the Initial FY 2006 QI Allotment in Column D plus the amount of Need in Column F. For Non-Need States, Column J is equal to the Initial FY 2006 QI Allotment in Column D minus the amount in Column I.

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STATE	Initial QI Allotments for FY 2006				FINAL FY 2006 QUALIFIED INDIVIDUALS ALLOTMENTS									
	Number of Individuals /3 (000s)	Percentage of Total Col B / Tot. Col B	Initial QI Allotment		FY 2006 Estimated QI Expenditures /1	Need (Difference) IF E>D, E-D	Reduction Pool for Non-Need States IF D > E, D - E	Percent of Total Non-Need States C/(Total of C)	Reduction for Non-Need States (Col H x Tot. Col F) \$25,340,824	Final FY 2006 QI Allotment /2				
			Col C x	Col D							E	F	G	H
Alabama	30.3	2.00%	\$7,991,218	\$14,000,000	\$6,008,782	Need	\$176,262	0.1412%	Need	\$14,000,000				
Alaska	1.3	0.09%	\$351,262	\$175,000	NA	NA	\$176,262	0.1412%	Need	\$14,000,000				
Arizona	42	2.74%	\$10,976,948	\$10,327,200	NA	NA	\$649,748	0.5208%	Need	\$35,780				
Arkansas	21	1.41%	\$5,620,198	\$4,646,905	NA	NA	\$973,293	0.7979%	Need	\$131,894				
California	134	8.80%	\$35,214,050	\$11,288,400	NA	NA	\$23,925,650	19.1656%	Need	\$5,422,627				
Colorado	12	0.79%	\$3,161,361	\$2,058,179	NA	NA	\$1,103,182	0.8837%	Need	\$30,357,337				
Connecticut	13	0.88%	\$3,514,623	\$6,758,294	\$3,243,671	Need	NA	0.8837%	Need	\$223,937				
Delaware	4	0.24%	\$965,971	\$261,654	NA	NA	\$704,317	0.5642%	Need	\$67,558,294				
District of Columbia	109	7.18%	\$28,718,697	\$26,951,676	NA	NA	\$868,021	0.7119%	Need	\$823,001				
Florida	47	3.07%	\$12,294,182	\$15,161,026	\$2,866,844	Need	NA	1.4131%	Need	\$25,340,824				
Georgia	5	0.33%	\$1,317,234	\$394,628	NA	NA	\$922,606	0.7391%	Need	\$15,161,026				
Hawaii	5	0.31%	\$1,229,418	\$1,222,000	NA	NA	\$7,418	0.0059%	Need	\$187,282				
Illinois	79	5.23%	\$20,900,110	\$12,900,000	NA	NA	\$8,000,110	6.4088%	Need	\$1,506				
Indiana	51	3.36%	\$13,435,785	\$4,414,785	NA	NA	\$9,021,000	7.2262%	Need	\$19,276,152				
Iowa	16	1.05%	\$4,215,148	\$2,020,000	NA	NA	\$2,195,148	1.7584%	Need	\$1,831,900				
Kansas	13	0.83%	\$3,336,992	\$1,400,000	NA	NA	\$1,936,992	1.5516%	Need	\$445,597				
Kentucky	31	2.04%	\$8,166,850	\$6,961,880	NA	NA	\$1,204,970	0.9652%	Need	\$393,184				
Louisiana	38	2.48%	\$9,923,161	\$10,002,363	\$79,202	Need	NA	0.7888%	Need	\$244,599				
Maine	9	0.57%	\$2,283,205	\$3,694,417	\$1,411,412	Need	NA	1.7667%	Need	\$10,002,363				
Maryland	19	1.25%	\$5,005,488	\$2,800,000	NA	NA	\$2,205,488	1.7667%	Need	\$3,694,417				
Massachusetts	41	2.68%	\$10,713,502	\$4,293,878	NA	NA	\$6,419,623	5.1424%	Need	\$447,696				
Michigan	48	3.14%	\$12,857,629	\$6,997,968	NA	NA	\$5,859,661	4.5307%	Need	\$1,303,133				
Minnesota	17	1.14%	\$4,566,411	\$1,503,000	NA	NA	\$3,063,411	2.3637%	Need	\$1,128,566				
Mississippi	18	1.19%	\$4,742,042	\$500,000	NA	NA	\$4,242,042	3.3981%	Need	\$313,300				
Missouri	37	2.41%	\$9,659,715	\$2,000,000	NA	NA	\$7,659,715	6.1358%	Need	\$861,941				
Montana	8	0.53%	\$2,107,574	\$566,000	NA	NA	\$1,541,574	1.2349%	Need	\$3,880,941				
Nebraska	10	0.68%	\$2,722,283	\$1,800,000	NA	NA	\$922,283	0.7388%	Need	\$8,104,854				
Nevada	7	0.44%	\$1,756,312	\$1,793,212	\$36,900	Need	NA	0.3200%	Need	\$17,946,67				
New Hampshire	49	3.21%	\$2,019,759	\$871,316	NA	NA	\$1,148,443	0.9200%	Need	\$3,694,417				
New Jersey	8	0.50%	\$2,821,076	\$8,899,284	\$3,921,792	Need	NA	3.1415%	Need	\$1,786,634				
New Mexico	12	0.79%	\$3,161,361	\$1,892,435	NA	NA	\$1,268,926	1.0165%	Need	\$12,024,984				
New York	92	6.04%	\$24,149,286	\$32,539,158	\$8,389,872	Need	NA	4.0497%	Need	\$3,903,779				
North Carolina	72	4.76%	\$19,055,982	\$14,000,455	NA	NA	\$5,055,527	0.5366%	Need	\$32,539,158				
North Dakota	4	0.24%	\$965,971	\$296,058	NA	NA	\$669,913	2.6883%	Need	\$18,029,751				
Ohio	61	4.04%	\$16,158,068	\$12,802,103	NA	NA	\$3,355,965	0.3366%	Need	\$681,234				
Oklahoma	19	1.27%	\$5,093,304	\$5,364,336	\$271,032	Need	NA	0.0371%	Need	\$9,399				
Oregon	16	1.05%	\$4,215,148	\$5,339,318	\$1,124,170	Need	NA	1.2916%	Need	\$327,807				
Pennsylvania	60	3.93%	\$15,718,990	\$16,310,573	\$591,583	Need	NA	0.5429%	Need	\$137,586				
Rhode Island	7	0.44%	\$1,756,312	\$1,710,008	NA	NA	\$46,304	0.0371%	Need	\$1,746,912				
South Carolina	27	1.80%	\$7,200,878	\$5,586,000	NA	NA	\$1,614,878	1.2916%	Need	\$6,873,071				
South Dakota	5	0.35%	\$1,405,049	\$727,260	NA	NA	\$677,789	0.5429%	Need	\$1,267,464				
Tennessee	32	2.09%	\$8,342,481	\$500,000	NA	NA	\$7,842,481	6.2827%	Need	\$67,500,520				
Texas	89	5.88%	\$23,534,577	\$18,221,663	NA	NA	\$5,312,914	4.2559%	Need	\$2,456,099				
Utah	4	0.26%	\$1,668,496	\$872,642	NA	NA	\$795,854	0.6375%	Need	\$1,506,944				
Vermont	4	0.26%	\$1,053,787	\$2,369,145	\$1,315,358	Need	NA	2.2078%	Need	\$2,369,145				
Virginia	31	2.02%	\$8,070,034	\$5,322,919	NA	NA	\$2,747,115	1.0808%	Need	\$559,469				
Washington	19	1.23%	\$4,917,673	\$3,568,458	NA	NA	\$1,349,215	1.0808%	Need	\$4,643,793				
West Virginia	19	1.27%	\$5,093,304	\$3,214,041	NA	NA	\$1,879,263	1.5054%	Need	\$381,475				
Wisconsin	2	0.11%	\$5,093,304	\$1,225,629	NA	NA	\$3,867,675	3.0980%	Need	\$4,308,238				
Wyoming	1	0.07%	\$439,078	\$432,000	NA	NA	\$7,078	0.0057%	Need	\$437,641				
Total	1518	100.00%	\$400,000,000	\$300,504,217	\$25,340,824	100.0000%	\$174,836,607	\$25,340,824	\$400,000,000					

Footnotes:
 /1 FY 2006 Estimates from August 2006 CMS Survey of States
 /2 For Need States Final FY 2006 QI Allotment is equal to Initial QI Allotment in Column D increased by amount in Column F
 /3 For Non-Need States Preliminary FY 2006 QI Allotment is equal to Initial QI Allotment in Column D reduced by amount in Column I
 are at least 120% but less than 135% of FPL.
 Source: Census Bureau Annual Social and Economic Supplement (ASEC) to the Current Population Survey (CPS) for past 3 years through March of 2005

Chart—Preliminary FY 2007 Qualified Individuals Allotments
 Column A—State. Column A shows the name of each State.
 Columns B through D show the determination of the States' Initial FY

2007 QI Allotments, based only on Census Bureau data.
 Column B—Number of Individuals. Column B contains the estimated average number of Medicare beneficiaries for the years 2004 through

2006 who are not covered by Medicaid whose family income is between 120 and 135 percent of the poverty level for each State, in thousands, as obtained from the Census Bureau's Annual Social and Economic Supplement to the

Current Population Survey through March of 2006.

Column C—Percentage of Total. Column C provides the percentage of total number of individuals for each State, determined as the Number of Individuals for the State in Column B divided by the sum of the Number of Individuals for all States in Column B.

Column D—Initial QI Allotment. Column D contains each State's Initial FY 2007 QI allotment, calculated as the State's Percentage of Total in Column C multiplied by \$400,000,000, the total amount available for FY 2007 for all States.

Columns E through J show the determination of the States' Preliminary FY 2007 QI Allotments.

Column E—FY 2007 Estimated QI Expenditures. Column E contains the States' most recent estimates of their total QI expenditures for FY 2007 requested from States in August 2006.

Column F—Need (Difference). Column F contains the additional amount of QI allotment needed for those States whose estimated expenditures in

Column E exceed their Initial FY 2007 QI allotments in Column D; for such States, Column E shows the amount in Column E minus the amount in Column D. For other States, Column F shows "NA."

Column G—Reduction Pool for Non-Need States. Column G contains the amount of the pool of surplus FY 2007 QI allotments for those States that project they will not need all of their FY 2007 QI allotments (referred to as non-need States). For States whose estimates of QI expenditures for FY 2007 in Column E are equal to or less than their Initial FY 2007 QI allotments in Column D, Column G shows the amount in Column D minus the amount in Column E. For the States with a need, Column G shows "Need." The pool of excess QI allotments is equal to the sum of the amounts in Column G.

Column H—Percent of Total Non-Need States. Column H shows the percentage of the total excess FY 2007 allotments for each Non-Need State, determined as the amount for each Non-

Need State in Column G divided by the sum of the amounts for all States in Column G.

Column I—Reduction for Non-Need States. Column I shows the amount of reduction to Non-Need States' Initial FY 2007 QI allotments in Column D in order to provide for the total need shown in Column F. The amount in Column I is determined as the percentage in Column H for Non-Need States multiplied by the sum of the need for all States from Column F.

Column J—Preliminary FY 2007 QI Allotment. Column J contains the Preliminary FY 2007 QI allotment for each State. For States that need additional amounts based on their FY 2007 Estimated QI Expenditures in Column E, Column J is equal to the Initial FY 2007 QI Allotment in Column D plus the amount of Need Column F. For Non-Need States, Column J is equal to the Initial FY 2007 QI Allotment in Column D minus the amount in Column I.

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STATE	Initial QI Allotments for FY 2007			PRELIMINARY FY 2007 QUALIFIED INDIVIDUALS ALLOTMENTS									
	Number of Individuals /3 (000s)	Percentage of Total Col B/Tot. Col B	Initial QI Allotment Col C x \$400,000,000	FY 2007 Estimated QI Expenditures /1	Need (Difference) If E-D, E-D	Reduction Pool for Non-Need States If D > E, D - E	Percent of Total Non-Need States G/(Total of G)	Reduction for Non-Need States (Col H x Tot. Col F) \$78,924,640	Preliminary FY 2007 QI Allotment /2				
										H	I	J	
Alabama	27.0	1.78%	\$7,114,625	\$20,160,000	\$13,045,375	Need	Need	Need	Need	\$20,160,000			
Alaska	1.7	0.11%	\$439,174	\$175,000	NA	\$264,174	Need	Need	Need	\$197,171			
Arizona	35.0	2.31%	\$9,222,661	\$13,773,900	\$4,551,239	Need	Need	Need	Need	\$13,773,900			
Arkansas	21.0	1.38%	\$5,533,597	\$6,545,655	\$1,012,058	Need	Need	Need	Need	\$6,545,655			
California	118.3	7.80%	\$3,181,379	\$17,496,200	NA	\$13,685,179	Need	Need	Need	\$18,644,733			
Colorado	13.3	0.88%	\$3,513,395	\$3,008,726	NA	\$504,669	Need	Need	Need	\$3,051,080			
Connecticut	16.0	1.05%	\$4,216,074	\$9,289,472	\$5,073,398	Need	Need	Need	Need	\$9,289,472			
Delaware	4.0	0.26%	\$1,054,018	\$295,000	NA	\$759,018	Need	Need	Need	\$358,701			
District of Columbia	2.7	0.18%	\$702,679	\$29,205	NA	\$673,474	Need	Need	Need	\$85,726			
Florida	104.3	6.87%	\$27,492,314	\$35,053,548	\$7,561,234	Need	Need	Need	Need	\$35,053,548			
Georgia	45.0	2.96%	\$11,857,708	\$16,198,727	\$4,341,019	Need	Need	Need	Need	\$16,198,727			
Hawaii	4.7	0.31%	\$1,229,688	\$488,738	NA	\$740,950	Need	Need	Need	\$550,922			
Idaho	6.0	0.40%	\$1,581,028	\$1,344,000	NA	\$237,028	Need	Need	Need	\$1,563,893			
Illinois	80.3	5.29%	\$21,168,204	\$15,800,000	NA	\$5,368,204	Need	Need	Need	\$16,250,528			
Indiana	57.7	3.80%	\$15,195,433	\$7,100,000	NA	\$8,095,433	Need	Need	Need	\$7,416,021			
Iowa	14.7	0.97%	\$3,864,734	\$3,400,000	NA	\$464,734	Need	Need	Need	\$1,341,806			
Kansas	12.0	0.79%	\$3,162,055	\$1,650,000	NA	\$1,512,055	Need	Need	Need	\$1,776,900			
Kentucky	30.3	2.00%	\$7,992,973	\$10,415,214	\$2,422,241	Need	Need	Need	Need	\$10,415,214			
Louisiana	8.3	0.55%	\$8,432,148	\$5,495,370	\$2,936,778	Need	Need	Need	Need	\$5,495,370			
Maine	3.0	0.20%	\$799,272	\$4,123,005	Need	Need	Need	Need	Need	\$5,928,277			
Maryland	20.0	1.32%	\$5,270,092	\$4,000,000	NA	\$1,270,092	Need	Need	Need	\$4,703,369			
Massachusetts	44.3	2.92%	\$11,682,038	\$6,547,774	NA	\$5,134,263	Need	Need	Need	\$3,157,104			
Michigan	51.7	3.40%	\$13,614,405	\$10,168,066	NA	\$3,446,339	Need	Need	Need	\$4,081,000			
Minnesota	14.3	0.94%	\$3,776,899	\$4,081,000	NA	NA	Need	Need	Need	\$4,081,000			
Mississippi	17.7	1.16%	\$4,665,248	\$500,000	NA	\$4,165,248	Need	Need	Need	\$848,730			
Missouri	45.7	3.01%	\$12,033,377	\$2,060,000	NA	\$9,973,377	Need	Need	Need	\$2,897,439			
Montana	7.0	0.46%	\$1,844,532	\$740,000	NA	\$1,104,532	Need	Need	Need	\$832,698			
Nebraska	10.0	0.66%	\$2,635,046	\$2,700,000	\$64,954	Need	Need	Need	Need	\$2,700,000			
Nevada	10.3	0.68%	\$2,722,881	\$2,790,330	\$67,449	Need	Need	Need	Need	\$2,790,330			
New Hampshire	8.0	0.53%	\$2,108,037	\$916,294	NA	\$1,191,743	Need	Need	Need	\$1,016,311			
New Jersey	41.0	2.70%	\$10,803,689	\$9,990,271	NA	\$813,418	Need	Need	Need	\$1,091,726			
New Mexico	11.0	0.72%	\$2,898,551	\$2,209,667	NA	\$688,884	Need	Need	Need	\$745,152			
New York	89.0	5.86%	\$23,451,910	\$44,640,558	\$21,188,648	Need	Need	Need	Need	\$24,349,928			
North Carolina	64.3	4.24%	\$16,952,130	\$18,018,000	\$1,065,870	Need	Need	Need	Need	\$44,640,558			
North Dakota	5.0	0.33%	\$1,317,523	\$431,954	NA	\$885,569	Need	Need	Need	\$18,018,000			
Ohio	60.3	3.97%	\$15,898,112	\$14,721,412	NA	\$1,176,700	Need	Need	Need	\$506,276			
Oklahoma	18.3	1.21%	\$4,830,918	\$7,695,104	\$2,864,186	Need	Need	Need	Need	\$811,247			
Oregon	21.0	1.38%	\$5,533,597	\$7,045,898	\$1,512,301	Need	Need	Need	Need	\$14,820,167			
Pennsylvania	69.0	4.52%	\$18,181,818	\$20,771,061	\$2,589,243	Need	Need	Need	Need	\$7,695,104			
Rhode Island	6.7	0.44%	\$1,756,697	\$2,214,797	\$458,099	Need	Need	Need	Need	\$2,214,797			
South Carolina	26.7	1.76%	\$7,026,790	\$4,946,000	NA	\$2,080,790	Need	Need	Need	\$5,120,631			
South Dakota	4.3	0.29%	\$1,141,853	\$363,234	NA	\$778,619	Need	Need	Need	\$978,225			
Tennessee	31.7	2.09%	\$8,444,313	\$900,000	NA	\$7,544,313	Need	Need	Need	\$1,158,336			
Texas	95.7	6.30%	\$25,208,608	\$21,661,096	NA	\$3,547,512	Need	Need	Need	\$3,249,786			
Utah	5.0	0.33%	\$1,317,523	\$1,066,000	NA	\$251,518	Need	Need	Need	\$2,249,786			
Vermont	3.3	0.22%	\$878,349	\$4,259,070	\$3,380,721	Need	Need	Need	Need	\$1,087,114			
Virginia	33.0	2.17%	\$8,695,652	\$6,920,000	NA	\$1,775,652	Need	Need	Need	\$4,259,070			
Washington	26.3	1.73%	\$6,938,955	\$5,283,000	NA	\$1,655,955	Need	Need	Need	\$7,069,022			
West Virginia	18.3	1.21%	\$4,830,918	\$3,291,138	NA	\$1,539,780	Need	Need	Need	\$5,420,364			
Wisconsin	22.7	1.49%	\$5,972,771	\$1,841,760	NA	\$4,131,011	Need	Need	Need	\$3,420,364			
Wyoming	2.0	0.13%	\$527,009	\$432,000	NA	\$95,009	Need	Need	Need	\$3,188,456			
Total	1518	100.00%	\$400,000,000	\$392,769,397	\$78,924,640	Need	Need	Need	Need	\$400,000,000			

Footnotes:
 /1 FY 2007 Estimates from August 2006 CMS Survey of States
 /2 For Need States Preliminary FY 2007 QI Allotment is equal to Initial QI Allotment in Column D increased by amount in Column F
 /3 For Non-Need States Preliminary FY 2007 QI Allotment is equal to Initial QI Allotment in Column D reduced by amount in Column I
 /4 Three-year average (2004-2006) of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 120% but less than 135% of FPL.
 Source: Census Bureau Annual Social and Economic Supplement (ASEC) to the Current Population Survey (CPS) for past 3 years through March of 2006

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

IV. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 million to \$29 million in any 1 year. Individuals and States are not included in the definition of a small entity.

This final rule codifies our procedures for implementing provisions of the Balanced Budget Act of 1997 to allocate, among the States, Federal funds to provide Medicaid payment for Medicare Part B premiums for low-income Medicare beneficiaries. The total amount of Federal funds available during a Federal fiscal year and the formula for determining individual State allotments are specified in the law. We have applied the statutory formula for the State allotments. Because the data specified in the law were not initially available, we used comparable data from the U.S. Census Bureau on the number of possible qualifying individuals in the States. This rule also permits, in a specific circumstance,

reallocation of funds to enable enrollment of all eligible individuals to the extent of the available funding.

We believe that the statutory provisions implemented in this final rule will have a positive effect on States and individuals. Federal funding at the 100 percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for qualifying individuals and, with the reallocation of the State allotments, a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid. The changes in allotments will not result in fewer individuals receiving the QI benefit in any State. The FY 2006 and FY 2007 costs for this provision have been included in the FY 2007 President's Budget.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. The analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Core-Based Statistical Area and has fewer than 100 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined and certify that this final rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. This rule will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

PART 433—STATE FISCAL ADMINISTRATION

■ Accordingly, the interim final rule amending 42 CFR part 433, which was published at 71 FR 25085 on April 28, 2006, is adopted as final.

Authority: Sections 1902(a)(10), 1933 of the Social Security Act (42 U.S.C. 1396a), and Public Law 105-33. (Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: September 19, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: September 28, 2006.

Michael O. Leavitt,
Secretary.

[FR Doc. E6-17033 Filed 10-13-06; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044-6044-01; I.D. 101106A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by non-American Fisheries Act (AFA) crab vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2006 Pacific cod sideboard limits apportioned to non-AFA crab vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 12, 2006, until 2400 hrs, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2006 Pacific cod sideboard limits apportioned to non-AFA crab vessels catching Pacific cod for processing by the offshore component is 412 mt for the Western Regulatory Area of the GOA, as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 680.22(e)(2)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 harvest limit of Pacific cod apportioned to non-AFA crab vessels catching Pacific cod for processing by the offshore component of

the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a sideboard directed fishing allowance for Pacific cod as 402 mt in the Western Regulatory Area. The remaining 10 mt in the Western Regulatory Area will be set aside as bycatch to support other anticipated groundfish fisheries. In accordance with § 680.22(e)(3), the Regional Administrator finds that this sideboard directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by non-AFA crab vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public

interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the sideboard directed fishing closure of Pacific cod apportioned to non-AFA crab vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 10, 2006.

The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 680.22 and is exempt from review under Executive Order 12866.

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

Dated: October 11, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 06-8707 Filed 10-11-06; 2:38 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 71, No. 199

Monday, October 16, 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

Rural Utilities Service

7 CFR Part 1792

RIN 0572-AC01

Seismic Safety

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service, an agency which administers the U.S. Department of Agriculture's Rural Development Utilities Programs (hereinafter "USDA Rural Development" or the "Agency,") is amending its regulations to update the seismic safety requirements of the Agency. These amendments will provide Agency borrowers (including Rural Telephone Bank borrowers), grant recipients, and the public with updated rules for compliance with seismic safety requirements for new building construction using loan, grant, or guaranteed funds of the Agency, or funds provided through lien accommodations or subordinations approved by the Agency.

In the final rule section of this **Federal Register**, USDA Rural Development is publishing this action as a direct final rule without prior proposal because it views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If USDA Rural Development receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action.

DATES: Comments on this proposed action must be received by the agency via facsimile transmission or carry a

postmark or equivalent no later than November 15, 2006.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Rural Utilities Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RUS-06-Agency-0049 to submit or view public comments and to view supporting and related materials available electronically. Information on using [Regulations.gov](http://www.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 your comment addressed to Richard Annan, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Avenue, STOP 1522, Room 5159, Washington, DC 20250-1522. Please state that your comment refers to Docket No. RUS-06-Agency-0049.

Other Information: Additional information about Rural Development and its programs is available on the Internet at <http://www.rurdev.usda.gov/index.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Heald, Structural Engineer, Transmission Branch, Electric Staff Division, USDA Rural Development, 1400 Independence Avenue, SW., STOP 1569, Washington, DC 20250-1569. Telephone: (202) 720-9102. Fax: (202) 720-7491.

SUPPLEMENTARY INFORMATION: See the Supplementary Information provided in the direct final rule located in the Rules and Regulations final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: September 27, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E6-17063 Filed 10-13-06; 8:45 am]

BILLING CODE 3410-15-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH98

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Holtec International HI-STORM 100 cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 3 to Certificate of Compliance Number 1014. Amendment No. 3 would revise Technical Specification (TS) 3.1.3, to eliminate cooling of the Multi-Purpose Canister (MPC) cavity prior to reflood with water, as part of cask unloading operations; TS 3.3.1, to allow linear interpolation between minimal soluble boron concentrations, for certain fuel enrichments in the MPC-32/32F; Appendix B, Section 1, to make modifications to the definitions of fuel debris, damaged fuel assembly, and non-fuel hardware; and Appendix B, Section 2, to permit the storage of pressurized water reactor fuel assemblies with annular fuel pellets in the top and bottom 12 inches of the active fuel length. Other changes would be made to incorporate minor editorial corrections.

DATES: Comments on the proposed rule must be received on or before November 15, 2006.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH98) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comment will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

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

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

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

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

Publicly available documents related to this rulemaking may be viewed electronically on the public computers at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML062130434, ML061980040, and ML062130467, respectively.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC

No. 1014 and does not include other aspects of the HI-STORM 100 cask system design. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on January 2, 2007. However, if the NRC receives significant adverse comments by November 15, 2006, then the NRC will publish a document that withdraws the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Public Law 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Public Law 95-601, sec. 10, 92 Stat. 2951 as amended by Public Law 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Public Law 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Public Law 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Public Law 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Public Law 109-58, 119 Stat. 806-810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Public Law 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Public Law 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Public Law 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Public Law 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.
Initial Certificate Effective Date: June 1, 2000.
Amendment Number 1 Effective Date: July 15, 2002.
Amendment Number 2 Effective Date: June 7, 2005.
Amendment Number 3 Effective Date: January 2, 2007.
SAR Submitted by: Holtec International.
SAR Title: Final Safety Analysis Report for the HI-STORM 100 Cask System.
Docket Number: 72-1014.
Certificate Expiration Date: June 1, 2020.

Model Number: HI-STORM 100.

* * * * *

Dated at Rockville, Maryland, this 22nd day of September, 2006.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Acting Executive Director for Operations.

[FR Doc. E6-17077 Filed 10-13-06; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AD09

Assessments: Initial Regulatory Flexibility Act Analysis

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking; supplemental notice.

SUMMARY: On July 24, 2006, the Federal Deposit Insurance Corporation (FDIC) issued a notice of proposed rulemaking with request for comments to better price deposit insurance for risk as required by the Federal Deposit Insurance Act, as amended by the Federal Deposit Insurance Reform Act ("Reform Act") (*see* 71 FR 41910 (July 24, 2006)). The FDIC is supplementing that notice of proposed rulemaking with an initial regulatory flexibility analysis to aid the public in commenting upon the small business impact of its proposed rule.

DATES: Comments on the initial regulatory flexibility analysis must be received on or before October 26, 2006.

ADDRESSES: You may submit comments, identified by "Regulatory Flexibility Act Analysis", by any of the following methods:

- Agency Web site: <http://www.FDIC.gov/regulations/laws/federal/propose.html>.

- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivered/Courier: The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

- E-mail: comments@FDIC.gov. Include "RFA Analysis" in the subject line of the message.

- Public Inspection: Comments may be inspected and photocopied in the FDIC Public Information Center, Room E-1002, 3502 Fairfax Drive, Arlington, Virginia 22226, between 9 a.m. and 5 p.m. on business days.

Instructions: Submissions received must include the agency name and RIN for this rulemaking. Comments received will be posted without change to <http://www.FDIC.gov/regulations/laws/federal/propose.html>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Munsell W. St. Clair, Senior Policy Analyst, Division of Insurance and Research, (202) 898-8967; and Christopher Bellotto, Counsel, Legal Division, (202) 898-3801.

SUPPLEMENTARY INFORMATION:

Initial Regulatory Flexibility Act Analysis

The Reform Act¹ requires that the FDIC prescribe final regulations, after notice and opportunity for comment, to provide for deposit insurance assessments under section 7(b) of the Federal Deposit Insurance Act (the FDIC Act). This notice supplements the FDIC's initial notice of proposed rulemaking, 71 FR 41910 (July 24, 2006), to amend 12 CFR 327 to: (1) Create different risk differentiation frameworks for smaller and larger institutions that are well capitalized and well managed; (2) establish a common risk differentiation framework for all other insured institutions; and (3) establish a base assessment rate schedule. The proposal would improve risk differentiation and deposit insurance pricing by drawing upon established measures of risk and existing best practices of the industry and Federal regulators for evaluating risk. The proposal would make the assessment system more sensitive to risk and fairer, by limiting the subsidization of riskier institutions by safer ones. The 60-day period for public comment on the proposed rule expired on September 22, 2006.

The FDIC's notice of proposed rulemaking did not include an initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 603) based on an exception for rules of particular applicability relating to rates or practices relating to such rates, which are expressly excluded from the definition of "rule" for purposes of the RFA (5 U.S.C. 601). The FDIC continues to believe that the rate exception applies to this rulemaking. Nonetheless, the FDIC is voluntarily undertaking an initial regulatory flexibility analysis of the proposal and seeking comment on it.

¹ Federal Deposit Insurance Reform Act of 2005, Public Law 109-171, 120 Stat. 9; Federal Deposit Insurance Conforming Amendments Act of 2005, Public Law 109-173, 119 Stat. 3601.

The Reform Act requires that the FDIC prescribe final regulations, after notice and opportunity for comment, to provide for deposit insurance assessments under section 7(b) of the Federal Deposit Insurance Act (the FDIC Act).² The Reform Act enacted the bulk of the recommendations made by the FDIC in 2001; it defines a risk-based system generally as one based on an institution's probability of incurring loss to the deposit insurance fund due to the composition and concentration of the institution's assets and liabilities, the likely amount of loss, and the revenue needs of the Deposit Insurance Fund (DIF).³

The Reform Act also grants the FDIC's Board of Directors the discretion to price deposit insurance according to risk for all insured institutions regardless of the level of the fund reserve ratio; it leaves in place the existing statutory provision allowing the FDIC to "establish separate risk-based assessment systems for large and small members of the Deposit Insurance Fund."⁴ These separate systems are subject to a new requirement that "[n]o insured depository institution shall be barred from the lowest-risk category solely because of size."⁵ In short, Congress directed the FDIC to differentiate for risk among all depository institutions and gave it the tools to do so.

The FDIC's proposal would improve risk differentiation and pricing by drawing upon established measures of risk and existing best practices of the industry and Federal regulators for evaluating risk. The FDIC believes that the proposal would make the assessment system more sensitive to risk, and also make the risk-based assessment system fairer, by limiting the subsidization of riskier institutions by safer ones. The proposed system for risk differentiation would consolidate the existing nine categories into four and name them Risk Categories I, II, III and IV. Risk Category I would replace the current 1A risk category (*see* 71 FR 41910).

Within Risk Category I, the FDIC proposed one method of risk differentiation for small institutions

² Pursuant to the Reform Act, current assessment regulations remain in effect until the effective date of new regulations. Section 2109 of the Reform Act. The Reform Act requires the FDIC, within 270 days of enactment, to prescribe final regulations, after notice and opportunity for comment, providing for assessments under section 7(b) of the Federal Deposit Insurance Act. Section 2109(a)(5) of the Reform Act.

³ 12 U.S.C. 1817(b)(1)(A) and (C).

⁴ 12 U.S.C. 1817(b)(1)(D).

⁵ Section 2104(a)(2) of the Reform Act (to be codified at 12 U.S.C. 1817(b)(2)(D)).

(institutions with less than \$10 billion in assets), and another for large institutions (institutions with \$10 billion or more in assets).⁶ For small institutions within Risk Category I, the FDIC proposed to combine CAMELS component ratings with current financial ratios to determine an institution's assessment rate.⁷ Within Risk Category I, the FDIC proposed to link assessment rates for small institutions to a combination of certain financial ratios and supervisory ratings based on a statistical analysis relating these measures to the probability that an institution will be downgraded to CAMELS 3, 4, or 5 within one year. An alternative was proposed that would use financial ratios alone to determine a small Risk Category I institution's assessment rate.

The FDIC also proposed to assess all new (established within seven years of a particular assessment period) well-capitalized, well-managed institutions, regardless of size, at the maximum rate applicable to well-managed, well-capitalized institutions. The proposal

included a base schedule of rates, setting a minimum of 2 and a maximum of 4 basis points in Risk Category I, and 7, 25, and 40 basis points respectively in Risk Categories II, III, and IV. Finally, the proposal included retention of the FDIC Board's ability to adjust rates uniformly up to a maximum of five basis points higher or lower than the base rates without the necessity of further notice and comment rulemaking.

As of December 31, 2005, of the 8,832 insured depository institutions, there were 5,362 small insured depository institutions as that term is defined for purposes of the RFA (i.e., those with \$165 million or less in assets).

For purposes of this analysis, whether the FDIC were to collect needed assessments under the existing rule or under the proposed rule, the total amount of assessments collected would be the same. The FDIC's total assessment needs are driven by its aggregate insurance losses, expenses, investment income, and insured deposit growth, among other factors. The proposed rule (or the alternative, if

employed) would merely alter the distribution of assessments among banks. Using the data as of December 31, 2005, the FDIC calculated the total assessments that would be collected under the base rate schedule in the proposed rule.

The economic impact of the proposal on each small institution for RFA purposes (i.e., institutions with assets of \$165 million or less) was then calculated as the difference in annual assessments under the proposed rule compared to the existing rule as a percentage of the institution's annual revenue⁸ and annual profits,⁹ assuming the same total assessments collected by the FDIC from the banking industry.

Based on the December 2005 data, under the proposal, for more than 99 percent of small institutions (as defined by the RFA), the change in the assessment system would result in assessment changes (up or down) totaling one percent or less of annual revenue.¹⁰ Table 1 below sets forth the results of the analysis in more detail.

TABLE 1.—CHANGE IN ASSESSMENTS UNDER THE PROPOSAL AS A PERCENTAGE OF TOTAL REVENUE

Change in assessments as a percentage of total revenue	Number of institutions	Percent of institutions
0.5 percent or less	5,236	97.7
0.5 to 1.0 percent	94	1.8
1.0 to 1.5 percent	15	0.3
1.5 to 2.0 percent	7	0.1
2.0 to 2.5 percent	4	0.1
2.5 to 3.0 percent	2	0.0
3.0 to 3.5 percent	0	0.0
3.5 to 4.0 percent	2	0.0
4.0 to 4.5 percent	0	0.0
4.5 to 5.0 percent	0	0.0
Greater than 5.0 percent	2	0.0
Total	5,362	100.0

Note: Three institutions with no reported revenue were excluded. The change in assessment under the alternative was less than \$2,500 for all three institutions.

As indicated, of the total of 5,362 small institutions for RFA purposes, just 10 would have experienced an increase or decrease equal to 2 percent or greater of their total revenue. These figures do not reflect a significant economic impact on revenues for a substantial

number of small insured institutions from the proposed small bank pricing method.

The FDIC performed a similar analysis to determine the impact on profits for small (again, as defined by the RFA) institutions. Based on December 2005 data, under the

proposal, 85 percent of the small institutions (as defined by RFA) with reported profits would have experienced an increase or decrease in their annual profits of one percent or less.¹¹ Table 2 sets forth the results of the analysis in more detail.

⁶ Both methods share a common feature, namely, the use of CAMELS component ratings. However, each method combines these measures with additional, different information.

⁷ For large institutions within Risk Category I, the FDIC proposed to combine CAMELS component ratings with long-term debt issuer ratings, and, for

some large institutions, financial ratios to assign institutions to initial assessment rate subcategories.

⁸ An institution's total revenue is defined as the sum of its annual net interest income and non-interest income.

⁹ An institution's profit is defined as income before taxes and extraordinary items, gross of loan loss provisions.

¹⁰ For about half of the small institutions analyzed, the change reflected an assessment decrease and a revenue increase.

¹¹ For about half of the small institutions analyzed, the change reflected an assessment decrease and a profit increase.

TABLE 2.—CHANGE IN ASSESSMENTS UNDER THE PROPOSAL AS A PERCENTAGE OF PROFIT

Change in assessments as a percentage of profit	Number of institutions	Percent of institutions
0.5 percent or less	3,470	69.9
0.5 to 1.0 percent	728	14.7
1.0 to 1.5 percent	324	6.5
1.5 to 2.0 percent	132	2.7
2.0 to 2.5 percent	84	1.7
2.5 to 3.0 percent	43	0.9
3.0 to 3.5 percent	37	0.7
3.5 to 4.0 percent	19	0.4
4.0 to 4.5 percent	13	0.3
4.5 to 5.0 percent	12	0.2
Greater than 5.0 percent	104	2.1
Total	4,966	100.0

Note: Institutions with negative or no profit were excluded. These institutions are shown separately in Table 3.

The data indicate that, out of those small institutions, as defined by the RFA, with reported profits, just 4 percent would have experienced an increase or decrease in their total profits of 3 percent or greater. Again, these figures do not reflect a significant economic impact on profits for a substantial number of small (as defined by the RFA) insured institutions from

the proposed small bank pricing method.

Table 2 excludes small institutions (as defined by the RFA) that either show no profit or show a loss, because a percentage cannot be calculated. The FDIC analyzed the effect of the proposal on these institutions by determining the annual assessment change (either an increase or a decrease) that would

result. Table 3 below shows that 56 percent (224) of the 399 small insured institutions in this category would have experienced a change (increase or decrease) in annual assessments of \$5,000 or less. Of the remainder, 3 percent (12) would have experienced assessment changes (increases or decreases) of \$20,000 or more.

TABLE 3.—CHANGE IN ASSESSMENTS UNDER THE PROPOSAL FOR INSTITUTIONS WITH NEGATIVE OR NO REPORTED PROFIT

Change in assessments	Number of institutions	Percent of institutions
\$2,500 or Less	136	34.1
\$2,500–\$5,000	88	22.1
\$5,000–\$7,500	57	14.3
\$7,500–\$10,000	37	9.3
\$10,000–\$20,000	69	17.3
Greater than \$20,000	12	3.0
Total	399	100.0

By way of comparison, the FDIC performed the same analyses on the alternative to the small banking method set forth in the proposed rule. As set forth in Tables 4, 5, and 6 below, the results are similar to the results

obtained analyzing the proposed method. For example, based on December 2005 data, under the alternative method, more than 99 percent of small institutions (as defined by RFA) would have experienced an

increase or decrease in their annual assessments amounting to one percent or less of annual revenue, as shown in Table 4.¹²

TABLE 4.—CHANGE IN THE ASSESSMENTS UNDER THE ALTERNATIVE AS A PERCENTAGE OF TOTAL REVENUE

Change in assessments as a percentage of total revenue	Number of institutions	Percent of institutions
0.5 percent or less	5,236	97.7
0.5 to 1.0 percent	93	1.7
1.0 to 1.5 percent	16	0.3
1.5 to 2.0 percent	7	0.1
2.0 to 2.5 percent	4	0.1
2.5 to 3.0 percent	2	0.0
3.0 to 3.5 percent	0	0.0
3.5 to 4.0 percent	2	0.0
4.0 to 4.5 percent	0	0.0

¹² For about half of the small institutions analyzed, the change reflected an assessment decrease and a revenue increase.

TABLE 4.—CHANGE IN THE ASSESSMENTS UNDER THE ALTERNATIVE AS A PERCENTAGE OF TOTAL REVENUE—Continued

Change in assessments as a percentage of total revenue	Number of institutions	Percent of institutions
4.5 to 5.0 percent	0	0.0
Greater than 5.0 percent	2	0.0
Total	5,362	100.0

Note: Three institutions with no reported revenue were excluded. The change in assessments under the alternative was less than \$2,500 for all three institutions.

Similarly, based on December 2005 RFA) with reported profits would have one percent or less of annual profits as data, under the alternative, 85 percent of experienced an increase or decrease of shown in Table 5.¹³ the small institutions (as defined by

TABLE 5.—CHANGE IN ASSESSMENTS UNDER THE ALTERNATIVE AS A PERCENTAGE OF PROFIT

Change in assessments as a percentage of profit	Number of institutions	Percent of institutions
0.5 percent or less	3,489	70.3
0.5 to 1.0 percent	728	14.7
1.0 to 1.5 percent	307	6.2
1.5 to 2.0 percent	138	2.8
2.0 to 2.5 percent	79	1.6
2.5 to 3.0 percent	43	0.9
3.0 to 3.5 percent	34	0.7
3.5 to 4.0 percent	18	0.4
4.0 to 4.5 percent	16	0.3
4.5 to 5.0 percent	12	0.2
Greater than 5.0 percent	102	2.1
Total	4,966	100.0

Note: Institutions with negative or no profit were excluded. These institutions are shown separately in Table 6.

Table 6 below shows that 56 percent of the 399 small insured institutions that showed no profit or a negative profit category would have experienced a change (increase or decrease) in annual assessments of \$5,000 or less. Of the remainder, three percent (12) would have experienced assessment changes (increases or decreases) of \$20,000 or more.

TABLE 6.—CHANGE IN ASSESSMENTS UNDER THE ALTERNATIVE FOR INSTITUTIONS WITH NEGATIVE OR NO REPORTED PROFIT

Change in assessment	Number of institutions	Percent of institutions
\$2,500 or Less	138	34.6
\$2,500–\$5,000	87	21.8
\$5,000–\$7,500	57	14.3
\$7,500–\$10,000	36	9.0
\$10,000–\$20,000	69	17.3
Greater than \$20,000	12	3.0
Total	399	100.0

The proposed rule does not directly impose any “reporting” or “recordkeeping” requirements within the meaning of the Paperwork Reduction Act. The compliance requirements for the proposed rule would not exceed existing compliance requirements for the present system of FDIC deposit insurance assessments,

which, in any event, are governed by separate regulations.

The FDIC is unaware of any duplicative, overlapping or conflicting Federal rules.

The initial regulatory flexibility analysis set forth above demonstrates that, if adopted in final form, the proposed rule would not have a

significant economic impact on a substantial number of small institutions within the meaning of those terms as used in the RFA (5 U.S.C. 605).

Commenters are invited to provide the FDIC with any information they may have about the likely quantitative effects of the proposal on small insured (\$165

¹³ For about half of the small institutions analyzed, the change reflected an assessment decrease and a profit increase.

million or less in assets) depository institutions.

By order of the Board of Directors.

Dated at Washington, DC, this 11th day of October, 2006.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 06-8728 Filed 10-13-06; 8:45 am]

BILLING CODE 6714-01-P

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052-AC33

Eligibility and Scope of Financing; Processing and Marketing

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or Agency) proposes to amend its regulation governing financing of processing and marketing operations by Farm Credit System (Farm Credit, FCS, or System) institutions under titles I and II of the Farm Credit Act of 1971, as amended (Act). Specifically, this proposal would revise the criteria used to determine eligibility of legal entities for financing as processing and marketing operations. FCA further proposes a non-substantive technical correction to its regulation defining the term "person."

DATES: Comments should be received on or before December 15, 2006.

ADDRESSES: We offer a variety of methods to receive your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the Agency's Web site or the Federal eRulemaking Portal. As faxes are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, please consider another means to submit your comment if possible. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- E-mail: Send us an e-mail at reg-comm@fca.gov. Agency Web site: <http://www.fca.gov>. Select "Legal Info," then "Pending Regulations and Notices."

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

- Fax: (703) 883-4477. Posting and processing of faxes may be delayed. Please consider another means to comment, if possible.

You may review copies of comments we received at our office in McLean, Virginia, or from our Web site at <http://www.fca.gov>. Once you are in the Web site, select "Legal Info," and then select "Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Barry Mardock, Associate Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA, (703) 883-4456, TTY (703) 883-4434;

or

Michael A. Anderson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, Denver, CO, (303) 696-9737, TTY (303) 696-9259;

or

Howard I. Rubin, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4029, TTY (703) 883-4020.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1.11(a)(1) and 2.4(a)(1) of the Act authorize Farm Credit Banks and associations to finance the processing and marketing operations of bona fide farmers, ranchers, and aquatic producers or harvesters that are "directly related" to the operations of the borrower, provided that the operations of the borrower supply some portion of the raw materials used in the processing or marketing operation (throughput).¹ Current § 613.3010(a)(1) provides that a borrower is eligible for financing for a processing or marketing operation only if the borrower is eligible to borrow from the System or is a legal entity in which eligible borrowers own more than 50 percent of the voting stock or equity.

We believe that our current rule, focusing solely on the percentage of eligible borrower ownership in a legal entity, is unnecessarily narrow. Therefore, FCA proposes to add

¹ 12 U.S.C. 2019(a)(1), 2075(a)(1). Each Farm Credit Bank has transferred its title I authority to make long-term real estate mortgage loans to Federal land bank associations pursuant to section 7.6 of the Act (12 U.S.C. 2279b).

additional specific criteria for determining what legal entities are eligible for financing for processing and marketing operations in accordance with the provisions in §§ 1.11(a) and 2.4(a) of the Act. While potentially expanding the pool of eligible legal entities, we believe that the additional criteria properly ensure that there is a sufficiently strong economic link—or identity of interests—between eligible borrowers and the processing or marketing entity so that the financing can be considered made and "directly related" to eligible borrowers and their operations.

II. Need for Proposed Rule

FCA believes its amendment to § 613.3010 will permit System associations to more effectively meet the credit needs of eligible borrowers in the face of changing agricultural and economic conditions while remaining consistent with the Act. We recognize the increasing importance of value-added agriculture and aquaculture and the changing ownership structures in processing and marketing operations. As part of these changing agricultural and economic conditions, FCA seeks to ensure that affordable and dependable credit for businesses that add value to farm and aquatic products and commodities remains available for the benefit of agricultural and aquacultural producers (and the rural communities in which they operate).

As farmers, ranchers, and producers or harvesters of aquatic products look for opportunities to increase farm and aquaculture income and diversify income sources, the importance of value-added agriculture and aquaculture has emerged, benefiting both producers and rural communities. Producers are pursuing value-added activities to gain more direct access to markets and a greater share of the consumers' food dollar. As such, farmers are increasingly relying on vertical integration and coordination of production, processing, and marketing to deliver products that meet consumer needs. These opportunities have stemmed from increased consumer demands regarding health, nutrition, and convenience; efforts by food processors to improve their productivity; and technological advances that enable producers to produce what consumers and processors desire. With the continuous shifting to a global economy, the international market for value-added products is growing.

Ownership structures within processing and marketing operations are changing as substantial capital investments cannot be fully raised

through traditional methods. The farmer-owned sole proprietorships or closely held entities prevalent in the past are often no longer economically viable. Therefore, new forms of cooperatives, limited liability corporations, limited liability partnerships, and other ownership structures—requiring outside investment—are being used to address equity and debt capital needs. For example, many of the new ethanol plants are only partially owned by farmers; however, these plants are usually directly related to the farmer-owners' operations and provide significant benefits to the rural communities in which they are located.

Moreover, even where sole proprietorships or closely held entities are economically viable, they are often not advisable from a legal liability, tax, or estate planning perspective. In fact, structuring a processing or marketing operation with prudent legal liability considerations protects borrowers' financial interests and is an acceptable safety and soundness practice. We believe that our rules shouldn't create a circumstance that forces eligible borrowers to reject prudent legal, business and tax advice if they wish to continue borrowing from their FCS lender.

Processing and marketing agricultural businesses are projected to continue to evolve and grow within rural America. The entrepreneurial spirit of farmers, ranchers, and producers of aquatic products will require a reliable and flexible source of credit and financial services. As value-added agriculture continues to grow, agricultural producers are challenged by the need to attract substantial capital in order to improve income for their benefit and the benefit of rural America.

FCA recognizes the importance of these value-added enterprises to producers and rural America and believes this proposed regulation will help ensure dependable credit for businesses that add value to farm and aquatic products and commodities, as well as the communities in which they operate. We believe that revisions to this regulation will provide the FCS with the additional flexibility to meet the existing and future credit needs of processing and marketing entities upon which farmers, ranchers, and producers or harvesters of aquatic products are increasingly dependent for economic survival.

III. Section-by-Section Analysis

The two criteria contained in existing § 613.3010(a)(1) and (a)(2) are retained in paragraphs (a)(1) and (a)(2), with

paragraph (a)(2) making clear that it only applies to a legal entity that does not qualify for financing under paragraph (a)(1) as a bona fide farmer, rancher, or producer or harvester of aquatic products. However, as discussed above, we believe that a limitation based solely on the percentage of voting stock held by eligible borrowers—representing pure numerical voting “control” of the entity—is an unnecessarily narrow way of looking through a legal entity to determine whether a loan can be viewed as made to an eligible borrower or “directly related to” an eligible borrower's operation. Therefore, the proposal would add new paragraph (a)(3) to provide alternative ways of determining actual eligible borrower “control” over a legal entity where the eligible borrower owns 50 percent or less of the voting stock or equity, new paragraph (a)(4) to provide eligibility for legal entities where eligible borrowers have a significant equity stake and provide a substantial amount of the throughput, and new paragraph (a)(5) to provide financing for legal entities that are a direct extension or outgrowth of an eligible borrower's production operation, regardless of the amount of eligible borrower ownership of the legal entity. A legal entity will need to meet one of these criteria in order to borrow from an FCS association.

A. Section 613.3010(a)(3)—Majority Voting, Management, or Actual Control

Under proposed § 613.3010(a)(3), if eligible borrowers own 50 percent or less of the voting stock or equity and one or more of those eligible borrowers/owners regularly produce some portion of the throughput used in the processing or marketing operation, then one of the following criteria must be met:

1. Majority Voting Control

Proposed § 613.3010(a)(3)(i) provides that a legal entity is eligible for financing under this paragraph if eligible borrowers under § 613.3000(b) own 50 percent or less of the voting stock or equity, regularly produce some portion of the throughput used in the processing or marketing operation and “exercise majority voting control over the entity.” An example of this is a corporation with separate classes of voting stock, where the eligible farmer-owned class of stock exercises actual majority voting control regardless of their overall percentage ownership of stock. Another example would be where holders of a majority of voting stock agree, by contract or otherwise, to allow eligible farmer-owners to exercise voting control. This provision would also

encompass a legal entity in which eligible borrowers have the voting power to elect at least 40 percent of the entity's board of directors (or general partners of a limited partnership, or managing members of a limited liability company) and non-eligible investors can elect no more than 40 percent, with the remainder to be elected through mutual agreement.

2. Management Control

Proposed § 613.3010(a)(3)(ii) would authorize financing for a legal entity in which eligible borrowers under § 613.3000(b) own 50 percent or less of the voting stock or equity, regularly produce some portion of the throughput used in the processing or marketing operation and “exercise control over management of the legal entity.” Eligible borrowers could exercise control over management by “constituting a majority of the directors of a corporation, general partners of a limited partnership, or managing members of a limited liability company.” In these circumstances, eligible borrowers are exercising actual management direction and control over the entity, even though they may not own a majority of the voting stock or equity.

3. Actual Control

Proposed § 613.3010(a)(3)(iii) would authorize financing for a legal entity in which eligible borrowers under § 613.3000(b) own 50 percent or less of the voting stock or equity, regularly produce some portion of the throughput used in the processing or marketing operation and “exercise the documented power and authority to directly determine and implement the policies, business practices, management, and decision-making process of the legal entity.” This is intended to cover unusual circumstances where the borrower does not meet the specific criteria of paragraphs (a)(3)(i) or (a)(3)(ii) but where, through contractual agreement or otherwise, eligible borrowers have “documented power and authority” over the legal entity.

B. Section 613.3010(a)(4)—Substantial Ownership Interest and Supply of Throughput

Proposed § 613.3010(a)(4) would authorize financing for a legal entity “in which eligible borrowers under § 613.3000(b) own at least 25 percent of the voting stock or equity and supply 20 percent or more of the throughput used in the processing or marketing operation.” Under this provision, eligible borrower-owners do not need to exercise voting control over the entity

because the substantial ownership requirement coupled with the 20-percent throughput requirement ensures that eligible borrowers have both a significant investment in the entity and the operation is “directly related to” eligible borrowers’ operations.

C. Section 613.3010(a)(5)—Extension or Outgrowth of Production Operations

Proposed § 613.3010(a)(5) would authorize financing for a legal entity that regularly processes or markets some portion of an eligible borrower’s throughput and whose operations are a direct extension or outgrowth of that eligible borrower’s operation. This is intended to cover entities—regardless of ownership—in which an eligible borrower has significant involvement, that fulfill the eligible borrower’s business needs, and that are functionally integrated with the eligible borrower’s production operation. Under paragraph (a)(5), the legal entity’s financial condition is necessarily dependent upon the continued involvement of the eligible borrower. This mutual interdependency in financial performance is further indicia that the processing and marketing operation is part, or an “extension or outgrowth,” of the eligible borrower’s production operation.

As discussed above, many farming operations are evolving to include value-added processing and marketing operations. In many instances, value-added processing and marketing operations are formed by, and for the direct benefit of, eligible borrowers, their families, or other individuals with direct ties to an eligible borrower’s production activities. In these instances, the processing or marketing operation is truly part of—or a “direct extension or outgrowth” of—the production operation. However, the ownership structures of these value-added operations are typically crafted to meet tax and liability concerns—rather than FCS requirements—and consequently may not satisfy the requirements of our current rule. Moreover, family members owning and operating value-added businesses may not themselves qualify for financing as “bona fide farmers.” However, the economic reality is that these value-added operations are integrated with and inextricably linked to an eligible borrower’s production activities.

Under the Act and our rules, the processing or marketing financing must be a credit need of the eligible borrower. Therefore, paragraph (a)(5) provides that the eligible borrower must establish the necessary link between the processing

and marketing entity and the eligible borrower’s operation.

The first specific element that an eligible borrower must demonstrate under paragraph (a)(5) is that “the legal entity was created and operates with the active support and involvement of the eligible borrower.” An example of this is the eligible borrower who assists a family member or friend in a start-up processing or marketing company in which the eligible borrower does not have any legal ownership; however, the start-up company provides an opportunity for the eligible borrower to manage production risk through product control for the benefit of that eligible borrower. The eligible borrower’s “active” involvement (meaning more than a token investment of money, time, resources, or throughput) in the creation of the legal entity and continued active involvement in the operation of the legal entity is evidence that the operation is truly an “extension or outgrowth” of the eligible borrower’s production operation. Where the financing is for a start-up venture, the eligible borrower should be able to demonstrate, through a business plan or otherwise, the eligible borrower’s intent to remain actively involved in the processing and marketing operation.

The second specific element that an eligible borrower must demonstrate under paragraph (a)(5) is that “the legal entity fulfills a business need and supports the operation of the eligible borrower through product branding or other value-added business activity directly related to the operations of the eligible borrower.” Regardless of direct ownership by an eligible borrower, a processing or marketing operation may be so integral to the eligible borrower’s operation and economic well-being that without it, the eligible borrower would not receive the same economic benefit. This processing or marketing operation may support the eligible borrower’s business needs through product branding, product customization to meet specific contract requirements, or any other value-added activity that meets the needs of the user or consumer and benefits the economic well-being of the eligible borrower.

The third criterion an eligible borrower must demonstrate is that “the legal entity and the eligible borrower coordinate to operate in a functionally integrated manner.” This coordination may be evidenced by shared resources (such as management expertise, employees, or assets) or other indicia of integration. We believe that Congress intended for the System to provide financing to assist eligible borrowers in

the upward vertical integration of their operations.

The fourth requirement implements the statutory mandate that the eligible borrower must provide some throughput to the processing or marketing operation.

IV. Technical Correction

We are also proposing to correct an omission that inadvertently occurred during the January 30, 1997, regulatory amendments² by adding the words “a legal entity or” to the § 613.3000(a)(3) definition of “[p]erson”. This does not provide any additional authority and is in accord with our stated intent published in the 1997 **Federal Register** final rule preamble.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not “small entities” as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 613

Agriculture, Banks, banking, Credit, Rural areas.

For the reasons stated in the preamble, part 613 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

1. The authority citation for part 613 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27, 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

Subpart A—Financing Under Titles I and II of the Farm Credit Act

§ 613.3000 [Amended]

2. Amend § 613.3000(a)(3) by adding the words “a legal entity or” before the words “an individual”.

3. Revise § 613.3010(a) to read as follows:

² See 62 FR 4441 (Jan. 30, 1997).

§ 613.3010 Financing for processing or marketing operations.

(a) *Eligible borrowers.* A borrower is eligible for financing for a processing or marketing operation under titles I and II of the Act only if the borrower:

(1) Is a bona fide farmer, rancher, or producer or harvester of aquatic products who regularly produces some portion of the throughput used in the processing or marketing operation; or

(2) Is a legal entity not eligible under paragraph (a)(1) of this section in which eligible borrowers under § 613.3000(b) own more than 50 percent of the voting stock or equity and regularly produce some portion of the throughput used in the processing or marketing operation; or

(3) Is a legal entity not eligible under paragraph (a)(1) of this section in which eligible borrowers under § 613.3000(b) own 50 percent or less of the voting stock or equity, regularly produce some portion of the throughput used in the processing or marketing operation and:

(i) Exercise majority voting control over the legal entity; or

(ii) Exercise control over management of the legal entity, such as constituting a majority of the directors of a corporation, general partners of a limited partnership, or managing members of a limited liability company; or

(iii) Exercise the documented power and authority to directly determine and implement the policies, business practices, management, and decision-making process of the legal entity; or

(4) Is a legal entity not eligible under paragraph (a)(1) of this section in which eligible borrowers under § 613.3000(b) own at least 25 percent of the voting stock or equity and supply 20 percent or more of the throughput used in the processing or marketing operation; or

(5) Is a legal entity not eligible under paragraph (a)(1) of this section that is a direct extension or outgrowth of an eligible borrower's operation. To obtain financing for a legal entity under this paragraph, the eligible borrower must establish that:

(i) The legal entity was created and operates with the eligible borrower's active support and involvement,

(ii) The legal entity fulfills a business need and supports the operation of the eligible borrower through product branding or other value-added business activity directly related to the operations of the eligible borrower,

(iii) The legal entity and the eligible borrower coordinate to operate in a functionally integrated manner, and

(iv) The legal entity regularly processes or markets some portion of the eligible borrower's throughput.

* * * * *

Dated: October 11, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E6-17170 Filed 10-13-06; 8:45 am]

BILLING CODE 6705-01-P

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****49 CFR Part 624**

[Docket No. FTA-2006-24708]

RIN 2132-AA91

Clean Fuels Grant Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 3010 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), amended section 5308 of title 49 United States Code, commonly referred to as the Clean Fuels Grant Program. SAFETEA-LU changes the program from a formula-based to a discretionary grant program. The Federal Transit Administration (FTA) proposes to amend its clean fuels grant program regulations to comport with the provisions of SAFETEA-LU.

DATES: Comments must be received on or before December 15, 2006. Late filed comments will be considered to the extent practicable.

ADDRESSES: Written comments: Submit written comments to the Docket Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. You may submit comments identified by the docket number (FTA-2006-24708) by any of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

• *Mail:* Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• *Fax:* 1-202-493-2478.

• *Hand Delivery:* To the Docket Management System, 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.

Instructions: All submissions must include the agency name (Federal Transit Administration) and Docket number (FTA-2006-24708) or Regulatory Identification Number (RIN) (2132-AA91) for this notice. Note that all comments received will be posted, without change, to <http://dms.dot.gov> including any personal identifying information. You may review DOT's complete Privacy Act Statement in the **Federal Register** notice published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For program issues, Kimberly Sledge, Office of Program Management, (202) 366-2053 (telephone); (202) 366-7951 (fax); or Kimberly.Sledge@dot.gov (e-mail). For legal issues, Scheryl Portee, Office of the Chief Counsel, (202) 366-4011 (telephone); (202) 366-3809 (fax); or Scheryl.Portee@dot.gov (e-mail).

SUPPLEMENTARY INFORMATION:**I. Background**

Section 3008 of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, June 9, 1998, established the Clean Fuels Formula Grant Program (the program) with a two-fold purpose. First, the program was developed to assist nonattainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). Second, the program supported emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies.

We promulgated the formula program as a final rule at 49 CFR part 624. (See 67 FR 40100, June 11, 2002 and 67 FR 41579, June 18, 2002). From its inception the program was authorized as a formula program. However, Congress did not fund the program.

II. Overview and General Discussion of the Proposed Rule**A. Why is FTA amending the Clean Fuels Grant Program?**

Section 3010 of SAFETEA-LU, Pub. L. 109-59, 119 Stat. 1144, 1572 (2005), changed the grant program from a formula-based to a discretionary grant program; however, the program retains its two-fold purpose as noted above. We propose to revise 49 CFR part 624 to reflect the amendments made by SAFETEA-LU.

With TEA-21, Congress authorized funding levels for the program at \$100 million. Although funding was

authorized, appropriation bills for fiscal years 1999 through 2005 directed FTA to transfer and merge all allocated funding for the program to the bus and bus facilities categories of the Capital Investment Grants and Loans Program (49 U.S.C. 5309), which funds the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

In fiscal year 2006, however, Congress provided \$17,607,150 to sixteen specific clean fuels projects and transferred the remaining balance of funds to the bus and bus facilities program of 49 U.S.C. 5309(b)(3). (See Department of Transportation Appropriations Act of 2006, Pub. L. 109–115, 119 Stat. 2396, 2417–2418 (2005)).

To ensure that procedures are in place when funding is appropriated for the program, we propose to establish criteria for the allocation of discretionary program funds in accordance with SAFETEA–LU.

B. To what revisions of 49 CFR part 624 does FTA seek comments?

SAFETEA–LU has modified the program by re-establishing it as a discretionary grant program. You are requested to comment on our proposal to implement the provisions of SAFETEA–LU by revising 49 CFR part 624 as follows:

Eligible Recipients

1. SAFETEA–LU amended eligible recipients to now include smaller urbanized areas with populations of less than 200,000. Accordingly, we propose to amend section 624.1 to reflect eligible applicants as follows: (1) “designated recipients,” as that term is defined in 49 U.S.C. 5307(a)(2); and (2) recipients in urbanized areas with populations of less than 200,000.

A “designated recipient” must be an entity designated to receive Federal urbanized formula funds per 49 U.S.C. 5307, in accordance with the applicable metropolitan and statewide transportation planning processes, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation. For an urbanized area with a population of less than 200,000, however, SAFETEA–LU requires the smaller urbanized area’s respective State to act as the recipient.

Further, all recipients must meet one of the following criteria: (1) Be designated as an ozone or CO nonattainment area as established by section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or (2) be designated as a maintenance area for ozone or CO. A

maintenance area is a previously designated nonattainment area that has been redesignated to attainment status by the U.S. Environmental Protection Agency (EPA).

Eligible Activities

2. We propose to amend section 624.3 by amending paragraph (a) and removing paragraphs (c)(4) and (c)(5) to exclude repowering and retrofitting of pre-1993 buses as eligible activities. Both activities were specifically authorized as eligible projects under TEA–21; however, SAFETEA–LU repealed those provisions. Accordingly, we have determined that such activities should not be authorized under this program. In addition, we propose to amend paragraph (c) by renumbering the current paragraph (c)(6) as a new (c)(3), and adding new paragraphs (c)(4), (5), and (6) to reflect SAFETEA–LU provisions applicable to eligible projects.

a. We propose to amend paragraph (a) to reflect the provisions in 49 U.S.C. 5323(i), which SAFETEA–LU amended to include facilities as well as vehicles. Accordingly, the Federal share for eligible projects will not exceed 90 percent of the net cost to comply with or maintain compliance with the Clean Air Act.

Further, the Administrator is authorized to administratively determine the net cost of such equipment or facilities attributable to compliance with the Clean Air Act. Therefore, for purposes of complying with cross-cutting provisions of 49 U.S.C. 5307, which limit the Federal share to 80 percent, we have administratively determined that the composite Federal share for vehicles and vehicle related equipment shall be 83 percent. For facilities, however, the 90 percent share would apply to the actual incremental costs of improvements for compliance with the Clean Air Act and recipients would be requested to provide supporting documentation.

We note that the President’s Budget for Fiscal Year 2007 proposed that FTA grants awarded during fiscal years 2007 and 2008 should reflect 100 percent of the net capital costs of factory-installed or retrofitted hybrid electric propulsion systems and any equipment related to such systems. This budget proposal also provides for administrative discretion to determine costs attributable to such systems and related-equipment. If Congress enacts the proposal, we will address the issue in the final rule.

b. Paragraph (c)(5) reflects the congressionally mandated provision limiting available funding for “clean

diesel buses” for each fiscal year to not more than 25 percent of funds allocated by 49 U.S.C. 5338(b)(2)(C). On January 18, 2001, EPA published a final rule establishing a comprehensive national control program to regulate heavy-duty vehicles and its fuel as a single system. As part of this program, new emission standards will start to take effect in model year 2007, and will apply to heavy-duty highway engines and vehicles. These standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. The EPA standards are codified at 40 CFR parts 69, 80, and 86. (See 66 FR 5001 (Jan. 18, 2001)). Accordingly, FTA proposes to interpret “clean diesel” to mean diesel engines certified to meet EPA’s heavy-duty engine emissions standards for model-years 2007 and later.

c. Paragraph (c)(6) proposes to amend section 624.3 to reflect that funds designated for eligible projects will remain available for obligation for three fiscal years, which includes the year of appropriation plus two additional fiscal years.

Application Process

3. Since the program is now a discretionary grant program, the pre-application included in Appendix A no longer applies. Accordingly, we propose to remove Appendix A from part 624 and revise § 624.5 to reflect that applications will be requested in a **Federal Register** notice each fiscal year that discretionary funds are appropriated by Congress for the program.

Additionally, since technological innovations continue to evolve, we believe the criteria for selecting eligible projects should be flexible. Accordingly, we propose to revise section 624.5 to reflect general criteria for selection of eligible projects. More specific selection criteria may be published in the **Federal Register** with a Notice of Funding Availability each fiscal year that discretionary funding is appropriated by Congress for the program.

Certifications

4. We propose to retain the current certification process noted in section 624.7. Each vehicle purchased with a grant under this program will be operated by the grantee using only clean fuels. The certification would be included with the **Federal Register** notice announcing our annual certifications and assurances. This is consistent with our policy of one-stop filing for all required certifications and assurances. Transit operators planning

to apply for the Clean Fuels Grant Program would indicate compliance with this certification when submitting its annual certifications and assurances. Additionally, grantees purchasing or leasing "clean diesel" buses would certify that the buses would be operated using only ultra-low-sulfur diesel fuel.

Statutory Cross-Cutting Requirements

5. Since the program is now a discretionary grant program, we propose to amend section 624.9 by removing the grant formula because it no longer applies. SAFETEA-LU requires that a grant under this program be subject to the applicable requirements of 49 U.S.C. 5307. Accordingly, we propose to amend section 624.9 by inserting the applicable statutory provisions of 49 U.S.C. 5307. Many of these requirements are contained in FTA Circular 9030.1C, which is available from the FTA Regional Office nearest you. The circular is also on the FTA Web site at (<http://www.fta.dot.gov>).

Further, all FTA grants provided under chapter 53 of title 49 of the United States Code, are subject to applicable requirements of the FTA Master Agreement (MA), which is incorporated by reference in the grant agreement. Additional project management guidelines and requirements may also be found in FTA Circular 5010.1C. The circular and the MA are located on the FTA Web site at (<http://www.fta.dot.gov>).

Reporting

6. We support the development and deployment of clean fuel and advanced propulsion technologies for transit buses. We remain interested in collecting relevant information on the operations and performance of these clean fuel technology buses to help assess the reliability, benefits, and costs of certain technologies compared to conventional vehicle technologies.

Accordingly, we propose to retain the reporting requirements of § 624.11, which require grantees receiving program funds for hybrid electric, battery electric, and fuel cell vehicles to provide information to us on the operations, performance, and maintenance of those vehicles purchased or leased with program funds.

We have determined, however, that *semiannual* instead of *quarterly* reporting for the first three years of the useful life of the vehicle is sufficient for this objective; thus, we propose to provide administrative relief by amending the reporting requirements in § 624.11 from quarterly to semiannually. Submission of data on the operation of

the vehicle beyond the three-year period would continue to be voluntary.

Likewise, we continue to encourage transit agencies acquiring other types of alternative fuel buses (*e.g.*, compressed natural gas (CNG), liquefied natural gas (LNG), liquefied petroleum gas (LPG), etc.) to voluntarily report similar information. However, recipients acquiring clean diesel vehicles are not required to report the data requested under section 624.11 because we believe that sufficient information about this technology has been compiled.

We will request Office of Management and Budget (OMB) approval to collect information from recipients receiving Federal financial assistance under the Clean Fuels program. We intend to collect information such as vehicle miles traveled, fuel costs, vehicle fuel/energy consumption and oil consumption, road calls or breakdowns resulting from clean fuel and advanced propulsion technology systems, and maintenance costs associated with these systems. You are invited to comment on our information collection proposal for evaluating the operating costs of clean fuel and advanced propulsion technology vehicles. We will use the data collected to provide more accurate information to transit agencies for future clean fuel and advanced propulsion vehicle acquisitions.

III. Regulatory Analyses and Notices

Statutory/Legal Authority for This Proposed Rulemaking

This rule is authorized pursuant to section 3010 of SAFETEA-LU, which amended section 5308 of Title 49, United States Code. We previously implemented section 5308, referred to as the Clean Fuels Grant Program, as part 624 of Title 49, Code of Federal Regulations.

Executive Order 12866

Under Executive Order 12866, the Department of Transportation (DOT) must examine whether this proposed rule is a "significant regulatory action." A significant regulatory action is subject to OMB review and the requirements of the Executive Order (E.O.). E.O. 12866 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 \$120 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 E.O.

This proposed rule amends an existing grant program and is not expected to impose any new compliance costs. Specifically, we propose amending the existing program from a formula program to a discretionary grant program in accordance with section 3010 of SAFETEA-LU. We believe that the industry costs and benefits of the Clean Fuels Grant Program do not warrant designating this a significant rule under E.O. 12866 because it involves grant application procedures and will not cost more than \$120 million annually. Additionally, we propose to provide administrative relief in the reporting criteria by increasing the reporting period from quarterly to semiannually. For these reasons, we have determined that this proposed rule is a nonsignificant regulatory action under section 3(f) of E.O. 12866. Accordingly, it has not been reviewed by OMB.

Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in E.O. 13132 (Federalism). This proposed rule does not include any provisions that have substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of E.O. 13132 do not apply because this proposed rule only sets forth application procedures for an existing formula grant program that has been statutorily amended to a discretionary grant program.

Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria of E.O. 13175 (Consultation and Coordination with Indian Tribal Governments). Because the proposal does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of E.O. 13175 do not apply.

Executive Order 13272 and the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), requires each agency to

analyze regulations and proposals to assess their impact on small businesses and other small entities to determine whether the rule or proposal will have a significant economic impact on a substantial number of small entities.

We evaluated the effects of this proposed rule on small entities and determined that it will not have a significant effect on a substantial number of small entities. This proposal imposes no new costs because it merely modifies the application procedures for an existing grant program.

Paperwork Reduction Act

This proposed rule includes information collection requirements subject to the Paperwork Reduction Act. OMB previously approved our information collection request under the Clean Fuels Formula Grant Program, 2132–0560. However, that approval expired on August 31, 2003, because funding was not allocated for the program.

Now that Congress appropriated funding in fiscal year 2006, we will submit a new information collection request to OMB. The affected public under this proposed rulemaking remains public transportation providers who apply for Federal funds under this program. Our new information collection request will not include any new reporting requirements. In fact, if the proposals contained in this NPRM are adopted as final, recipients would experience a decrease in reporting because we intend to extend the reporting period from quarterly to semiannually.

We solicit comments on the proposed reporting requirements. Comments should address: whether the proposed collection of information is necessary for the proper performance of the FTA grant process; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of information on the applicants, including the use of alternative collection techniques (e.g., filing applications and reports via facsimile (fax), electronic mail or other forms of information technology).

Unfunded Mandates Reform Act of 1995

This rule does not propose unfunded mandates under the Unfunded Mandates Reform Act of 1995. If the proposals are adopted into a final rule, it will not result in costs of \$100 million or more (adjusted for inflation), in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

National Environmental Policy Act

The National Environmental Policy Act of 1969, (42 U.S.C. 4321–4347 as amended), requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. Since this proposed rule promotes the use of clean fuels in vehicles used for public transportation, it potentially may have a positive impact on the environment. Alternatively, there are no significant environmental impacts associated with this proposed rule.

List of Subjects in 49 CFR Part 624

Grant Programs—Transportation, Mass transportation, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FTA proposes to amend 49 CFR part 624 as follows:

PART 624—CLEAN FUELS GRANT PROGRAM

1. The authority citation for part 624 continues to read as follows:

Authority: 49 U.S.C. 5308; 49 CFR 1.51.

2. The heading to part 624 is revised to read as set forth above.

3. Revise § 624.1 to read as follows:

§ 624.1 Eligible applicant.

(a) An eligible applicant is:

(1) A designated recipient (designated recipient has the same meaning as in 49 U.S.C. 5307(a)(2)); or

(2) A recipient for an urbanized area with a population of less than 200,000 (smaller urbanized area). The State in which the smaller urbanized area is located shall act as the recipient.

(b) An eligible applicant, as defined in paragraph (a) of this section, shall operate in an area that is either:

(1) An ozone or carbon monoxide nonattainment area as specified under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) A maintenance area for ozone or carbon monoxide.

4. Amend § 624.3 by revising paragraphs (a) and (c)(3) through (6) to read as follows:

§ 624.3 Eligible activities.

(a) Eligible activities include purchasing or leasing clean fuel buses and constructing new or improving existing public transportation facilities to accommodate clean fuel buses.

* * * * *

(3) At the discretion of the Administrator, projects relating to clean fuel, biodiesel, hybrid electric, or zero

emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

(4) The Federal share for eligible activities undertaken for the purpose of complying with or maintaining compliance with the Clean Air Act under this program shall be limited to 90 percent of the net (incremental) cost of the activity.

(i) The Administrator may exercise discretion and determine the percentage of Federal share for eligible activities to be less than 90 percent.

(ii) An administrative determination per this subsection will be published in accordance with § 624.5(a).

(5) Funding for clean diesel buses shall be limited to not more than 25 percent of the amount made available or allocated and appropriated each fiscal year to carry out the program.

(6) Any amount made available or appropriated for this section shall remain available to an eligible activity for two years after the fiscal year for which the amount is made available or appropriated. Any amount that remains unobligated at the end of the three-year-period shall be added to the amount made available in the following fiscal year.

5. Revise § 624.5 to read as follows:

§ 624.5 Application process.

(a) FTA shall publish a Notice of Funding Availability in the **Federal Register** each fiscal year that funds are appropriated and discretionary funding made available for the Clean Fuels program. The notice shall provide the criteria by which the eligible projects will be evaluated for selection and the Administrator's administrative determination of the net Federal share for projects funded under this part.

(b) The Administrator shall determine the criteria for selecting proposed projects for funding, which may include, but are not limited to the following factors:

(1) Whether the proposed project is a transportation control measure in an approved State Implementation Plan;

(2) The benefits of the proposed project in reducing transportation-related pollutants;

(3) Consistency with the recipient's fleet management plan;

(4) The applicant's ability to implement the project and facilities to maintain and fuel the proposed vehicles;

(5) The applicant's coordination of the proposed project with other public transportation entities or other related projects within the applicant's Metropolitan Planning Organization or

the geographic region within which the proposed project will operate.

(6) The proposed project's ability to support emerging clean fuels technologies or advanced technologies for transit buses.

6. Revise § 624.9 to read as follows:

§ 624.9 Grant requirements.

A grant under this section shall be subject to the following requirements of 49 U.S.C. 5307(d):

(a) *General.* All recipients shall maintain and report financial and operating information on an annual basis, as prescribed in 49 CFR part 630 et seq., and the most recent National Transit Database Reporting Manual.

(b) *Labor Standards.* As a condition of financial assistance under 49 U.S.C. 5308, the interests of employees affected by the assistance shall be protected under arrangements that the Secretary of Labor concludes are fair and equitable.

(c) *Satisfactory Continuing Control.*

(1) An FTA grantee shall:

(i) Maintain control over federally funded property;

(ii) Ensure that it is used in transit service; and

(iii) Dispose of it in accordance with Federal requirements.

(2) Under this paragraph (c), if the grantee leases federally funded property to another party, the lease must provide the grantee satisfactory continuing control over the use of that property as determined in two areas: real property (land) and facilities; and personal property (equipment and rolling stock, both revenue and non-revenue).

(d) *Maintenance.* The grant applicant shall certify annually that pursuant to

49 U.S.C. 5307(d)(1)(C), it will maintain (federally funded) facilities and equipment. In addition, the grantee shall keep equipment and facilities acquired with Federal assistance in good operating order, which includes maintenance of rolling stock (revenue and non-revenue), machinery and equipment, and facilities.

(e) *Rates Charged Elderly and Persons with Disabilities during Nonpeak Hours.* In accordance with 49 U.S.C.

5307(d)(1)(D), the grant applicant shall certify that the rates charged the elderly and persons with disabilities during nonpeak hours for fixed-route transportation using facilities and equipment financed with Federal assistance from FTA will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation is by the applicant or by another entity under lease or otherwise.

(f) *Use of Competitive Procurements.* Pursuant to 49 U.S.C. 5307(d)(1)(E), the grant applicant shall certify that it will use competitive procurements and will not use procurements employing exclusionary or discriminatory specifications.

(g) *Compliance with Buy America Provisions.* The grant applicant shall certify that in carrying out a procurement authorized for this program, the applicant will comply with applicable Buy America laws.

(h) *Certification that Local Funds Are Available for the Project.* The grant applicant shall certify that the local funds are or will be available to carry out the project.

(i) *Compliance with National Policy Concerning Elderly Persons and*

Individuals with Disabilities. The grant applicant shall certify that it will comply with the requirements of 49 U.S.C. 5301(d) concerning the rights of elderly persons and persons with disabilities.

(j) *FTA Master Agreement.* The grant applicant shall comply with applicable provisions of the FTA Master Agreement which is incorporated by reference in the grant agreement.

7. Amend § 624.11 by revising paragraph (a) introductory text and (c) to read as follows:

§ 624.11 Reporting.

(a) Recipients of financial assistance under 49 U.S.C. 5308 who purchase or lease hybrid electric, battery electric and fuel cell vehicles shall report semiannually the following information to the appropriate FTA Regional Office for the first three years of the useful life of the vehicle:

* * * * *

(c) Recipients of financial assistance under 49 U.S.C. 5308 that purchase or lease clean diesel vehicles are not required to report information beyond FTA grant reporting requirements for capital projects.

Appendix A to Part 624 [Removed]

8. Remove Appendix A to part 624.

Issued in Washington, DC, this 10th day of October, 2006.

James S. Simpson,

Administrator, Federal Transit Administration.

[FR Doc. E6-17071 Filed 10-13-06; 8:45 am]

BILLING CODE 4910-57-P

Notices

Federal Register

Vol. 71, No. 199

Monday, October 16, 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.

BROADCASTING BOARD OF GOVERNORS

Submission for OMB Review; Comment Request

AGENCY: The Broadcasting Board of Governors.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 [Public Law 104-13; 44 U.S.C. Chapter 3506(c)(2)(A)], this notice announces that the information collection activity titled, "Surveys and Other Audience Research for Radio and TV Marti" has been forwarded to the Office of Management and Budget (OMB) for review and comment. The Broadcasting Board of Governors (BBG) is requesting reinstatement of this collection for a three-year period and approval of a revision to the burden hours.

The information collection activity involved with this program is conducted pursuant to the mandate given to the BBG (formerly the United States Information Agency) in accordance with Pub. L. 98-111, the Radio Broadcasting to Cuba Act, dated, October 4, 1983, to provide for the broadcasting of accurate information to the people of Cuba and for other purposes. This act was amended by Pub. L. 101-246, dated February 16, 1990, which established the authority for TV Marti.

DATES: Comments must be submitted on or before November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Jeannette Mancus, the BBG Clearance Officer, BBG, M/AA, Room 1657, 330 Independence Avenue, SW., Washington, DC 20237, telephone (202) 203-4664, e-mail address jgmancus@ibb.gov; or Mr. Alex Hunt, the OMB Desk Officer for BBG, via fax at 202-395-7285 or by e-mail at: Alexander_T._Hunt@omb.eop.gov.

COPIES: Copies of the proposed collection submitted to OMB for approval may be obtained from the BBG Clearance Officer or the OMB Desk Officer for BBG.

SUPPLEMENTARY 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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 3, 2006, Volume 71, Number 149, Page 44014.

Public reporting burden for this proposed collection of information is estimated to average 30 minutes (.50 of an hour) per response for field survey respondents (400), and 240 minutes (4 hours) for Focus Group Study respondents (48), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are voluntary and respondents will be required to respond only one time. Comments are requested on the proposed information collection concerning:

(a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility;

(b) The accuracy of the Agency's burden estimates;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of this collection of information to Ms. Jeannette Mancus, the BBG Clearance Officer, BBG, M/AA, Room 1657, 330 Independence Avenue, SW., Washington, DC 20237, telephone (202) 203-4664, e-mail address jgmancus@ibb.gov; or to Mr. Alex Hunt, the OMB Desk Officer for BBG, via fax at 202-395-7285 or by e-mail at: Alexander_T._Hunt@omb.eop.gov.

Current Actions: BBG is requesting reinstatement of this collection for a

three-year period and approval for a revision to the burden hours.

Title: Interviews and Other Audience Research for Radio and TV Marti.

Abstract: Data from this information collection are used by BBG's Office of Cuba Broadcasting (OCB) in fulfillment of its mandate to evaluate effectiveness of Radio and TV Marti operations by estimating the audience size and composition for broadcasts; and assess signal reception, credibility and relevance of programming through this research.

Proposed Frequency of Responses:
No. of Respondents: 400 Field Study + 48 Group Study = 448.

Recordkeeping Hours: .50 Field Study + 4 Group Study = (200) + (192) = Total Annual Burden: 392.

Dated: October 4, 2006.

Carol F. Baker,

Director of Administration.

[FR Doc. E6-17136 Filed 10-13-06; 8:45 am]

BILLING CODE 8610-01-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 0610006259-6259-01]

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of Proposed Stockpile Disposals for Fiscal Year 2008

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry.

SUMMARY: This notice is to advise the public that the National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State, is seeking public comments on the potential market impact of the proposed disposal levels of excess materials for the Fiscal Year (FY) 2008 Annual Materials Plan.

DATES: To be considered, written comments must be received by November 15, 2006.

ADDRESSES: Address all comments concerning this notice to Michael Vaccaro, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, 1401 Constitution Avenue, NW., Room 3876, Washington, DC

20230, fax: (202) 482-5650 (Attn: Michael Vaccaro), e-mail: MIC@bis.doc.gov; or Peter Haymond, U.S. Department of State, Bureau of Economic and Business Affairs, Office of International Energy and Commodity Policy, Washington, DC 20520, fax: (202) 647-8758 (Attn: Peter Haymond), or e-mail: haymondp@state.gov.

FOR FURTHER INFORMATION CONTACT: David Newsom, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: (202) 482-7417.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Strategic and Critical Materials Stock Piling Act of 1979, as amended (50 U.S.C. 98, *et seq.*), the Department of Defense (DOD), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h-1) formally established a Market Impact Committee (the Committee) to “advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *.” The Committee must also balance market impact concerns with the statutory requirement to protect the Government against avoidable loss.

The Committee is comprised of representatives from the Departments of

Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the materials contained in the stockpile.

In Attachment 1, the Defense National Stockpile Center lists the proposed quantities that are enumerated in the stockpile inventory for the FY 2008 Annual Materials Plan. The Committee is seeking public comments on the potential market impact of the sale of these materials. Public comments are an important element of the Committee’s market impact review process.

The quantities listed in Attachment 1 are not disposal or sales target quantities, but rather a statement of the proposed maximum disposal quantity of each listed material that may be sold in a particular fiscal year by the DNSC. The quantity of each material that will actually be offered for sale will depend on the market for the material at the time of the offering as well as on the quantity of each material approved for disposal by Congress.

Submission of Comments

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the sale of these commodities. All comments must be submitted to the address indicated in this notice. All comments submitted through e-mail must include the phrase “Market Impact

Committee Notice of Inquiry” in the subject line.

The Committee encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on November 15, 2006. The Committee will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured.

All comments submitted in response to this notice will be made a matter of public record and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. The Committee will seek to protect such information to the extent permitted by law.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS’s Office of Administration at (202) 482-1900 for assistance.

Dated: October 6, 2006.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

ATTACHMENT 1.—PROPOSED FY 2008 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Aluminum Oxide, Abrasive	ST	5,500	
Bauxite, Metallurgical Jamaican	LDT	2,000,000	
Beryl Ore	ST	3,000	(1)
Beryllium Metal	ST	40	
Beryllium Copper Master Alloy	ST	300	
Chromite, Chemical	SDT	100	(1)
Chromium, Ferro	ST	150,000	
Chromium, Metal	ST	1,000	
Cobalt	LB Co	3,500,000	(1)
Columbium Concentrates	LB Cb	100,000	(1)
Columbium Metal Ingots	LB Cb	20,000	
Diamond Stones	ct	520,000	(1)
Fluorspar, Metallurgical Grade	SDT	35,000	(1)
Germanium	Kg	8,000	
Graphite	ST	120	(1)
Iodine	LB	1,000,000	(1)
Lead	ST	4,000	(1)
Manganese, Battery Grade, Natural	SDT	20,000	(1)
Manganese, Battery Grade, Synthetic	SDT	3,000	(1)
Manganese, Chemical Grade	SDT	25,000	(1)
Manganese, Ferro	ST	100,000	
Manganese, Metallurgical Grade	SDT	250,000	
Mica, All	LB	17,000	(1)

ATTACHMENT 1.—PROPOSED FY 2008 ANNUAL MATERIALS PLAN—Continued

Material	Unit	Quantity	Footnote
Platinum	Tr Oz	9,000	(1)
Platinum-Iridium	Tr Oz	3,000	(1)
Talc	ST	1,000	(1)
Tantalum Carbide Powder	LB Ta	8,000	(1)
Tantalum Metal Powder	LB Ta	10,000	(1)
Tantalum Minerals	LB Ta	140,000	(1)
Tin	MT	12,000	(1)
Tungsten Metal Powder	LB W	300,000	
Tungsten Ores & Concentrates	LB W	8,000,000	
VTE, Chestnut	LT	10	(1)
VTE, Quebracho	LT	6,000	
VTE, Wattle	LT	200	(1)
Zinc	ST	30,000	(1)

¹ Actual quantity will be limited to remaining inventory.

[FR Doc. E6-17066 Filed 10-13-06; 8:45 am]
BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-801, A-428-801, A-475-801, A-588-804, A-559-801, A-412-801]

Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Notice of Partial Rescission of Antidumping Duty Administrative Reviews

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

SUMMARY: On July 3, 2006, in response to requests from interested parties, the Department of Commerce published a notice of initiation of administrative reviews of the antidumping duty orders on ball bearings (and parts thereof) from France, Germany, Italy, Japan, Singapore, and the United Kingdom. The period of review is May 1, 2005, through April 30, 2006. The Department of Commerce is rescinding these reviews in part.

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Kristin Case or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3174 and (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2006, in response to requests from interested parties, the Department of Commerce (Department) published a notice of initiation of administrative reviews of the

antidumping duty orders on ball bearings (and parts thereof) from France, Germany, Italy, Japan, Singapore, and the United Kingdom. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 37892 (July 3, 2006).

Subsequent to the initiation of these reviews, we received timely withdrawals of the requests we had received for the following reviews: ABB Turbo Systems Limited and ABB Inc. (collectively ABB) and NTN Kugellagerfabrik (Deutschland) GmbH (NTN GmbH) with respect to ball bearings and parts thereof from Germany; INA with respect to ball bearings and parts thereof from France; Alcatel Vacuum Technology France (AVTF) with respect to ball bearings and parts thereof from France and the United Kingdom; NSK Europe Ltd., NSK Bearings Europe Ltd. and NSK Corporation (collectively NSK UK) and SKF Aeroengine Bearings UK (SKF UK) with respect to ball bearings and parts thereof from the United Kingdom; and Toyota Industries Corporation (Toyota), Takeshita Seiko Co., Ltd. (Takeshita), and Minebea Co., Ltd. (Minebea) with respect to ball bearings and parts thereof from Japan.¹ Because there are no other requests for review of the above-named firms, we are rescinding the reviews with respect to these companies in accordance with 19 CFR 351.213(d). We also received a timely withdrawal of the request we received for Sapporo Precision, Inc. (Sapporo) with respect to ball bearings and parts thereof from

¹ On August 15, 2006, ABB submitted its withdrawal of request for review. On September 13, 2006, AVTF submitted its withdrawals of request for review. On September 21, 2006, Toyota submitted its withdrawal of request for review. On September 25, 2006, NSK UK submitted its withdrawal of request for review. On September 29, 2006, Timken submitted its withdrawals of request for review of INA, Minebea, NTN GmbH, SKF UK, and Takeshita.

Japan.² A review of Sapporo was also requested by another interested party which has not withdrawn its request. Consequently, we have continued our review of Sapporo.

Rescission of Reviews

In accordance with 19 CFR 351.213(d) the Department will rescind an administrative review “if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.” ABB, AVTF, NSK UK, and Toyota withdrew their requests within the 90-day time limit. Timken U.S. Corporation (Timken) withdrew its requests for INA, Minebea, NTN GmbH, SKF UK, and Takeshita within the 90-day time limit. Because the Department received no other requests for review of ABB, AVTF, INA, NSK UK, NTN GmbH, Minebea, SKF UK, Takeshita, and Toyota, the Department is rescinding the reviews in part with respect to ball bearings and parts thereof from France, Germany, Japan, and the United Kingdom by these firms. The above rescissions are pursuant to 19 CFR 351.213(d)(1). The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection within 15 days of publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department’s regulations 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 assumption that reimbursement of antidumping duties

² On September 1, 2006, Sapporo submitted its withdrawal of request for review.

occurred and subsequent assessment of double antidumping duties.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or 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 sanctionable violation.

We are issuing and publishing these rescissions in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 10, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-17148 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-837]

Certain Cut-to-Length Carbon Quality Steel Plate from Korea; Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

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

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8362.

SUPPLEMENTARY INFORMATION:

Background Information

On April 5, 2006, the U.S. Department of Commerce ("the Department") published a notice of initiation of the administrative review on the countervailing duty order on certain cut-to-length carbon quality steel plate from the Republic of Korea, covering the period January 1, 2005, through December 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 17077 (April 5, 2006). The preliminary results of this review are currently due no later than October 31, 2006.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue preliminary results within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245-day period to issue its preliminary results by up to 120 days.

We have determined that it is not practicable to complete the preliminary results of this review within the 245-day period. Given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of review by 120 days. Therefore, the preliminary results are now due no later than February 28, 2007. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: October 6, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-17040 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-820]

Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Rescission of Antidumping Duty Administrative Review

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

SUMMARY: After the Department of Commerce (the Department) initiated a review of the antidumping duty order on certain hot-rolled carbon steel flat products (HRS) from India covering the period December 1, 2004, through November 30, 2005 (the period of review or POR), the sole respondent, Essar Steel Ltd. (Essar), claimed it did not ship subject merchandise to the United States during the POR. The Department is now rescinding this review based on record evidence consistent with Essar's no shipments claim.

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Pedersen or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-2769 or (202) 482-5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2005, the Department published, in the **Federal Register**, a notice of the opportunity to request an administrative review of the antidumping duty order on HRS from India, covering the period December 1, 2004, through November 30, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 72109 (December 1, 2005). On December 30, 2005 and January 3, 2006, Nucor Corporation and U.S. Steel Corporation (collectively, petitioners), respectively, requested an administrative review of the above-referenced antidumping order with respect to Essar. On February 1, 2006, the Department initiated the requested administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 5241 (February 1, 2006). On February 10, 2006, Essar submitted a letter to the Department in which it certified that it made no shipments of subject merchandise to the United States during the POR.

On July 14, 2006, the Department published notification of its intent to rescind the instant review in the **Federal Register**. *See Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Intent to Rescind Administrative Review*, 71 FR 40068 (July 14, 2006) (*Intent to Rescind*). The Department stated in that notice that it intended to rescind the instant administrative review of Essar because U.S. Customs and Border Protection (CBP) data supported the conclusion that there were no entries, exports, or sales of subject merchandise from Essar. The Department provided interested parties an opportunity to comment on the rescission and received no comments.

Scope of the Order

The products covered by the antidumping duty order are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with

plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order.

Specifically included within the scope of the order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: i) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of the order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of the order:

- Alloy HRS products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society

for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).

- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to the order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90.

Certain hot-rolled carbon steel flat products covered by the order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS

subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Rescission of Administrative Review

In accordance with 19 CFR § 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Department concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Because Essar was the only company for which a review was requested and it did not have any sales or exports of subject merchandise to the United States during the POR, we are rescinding this review pursuant to 19 CFR § 351.213(d)(3). *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination not to Revoke in Part*, 68 FR 53127 (September 9, 2003) (after finding no evidence of entries of subject merchandise from two companies that made “no shipments” claims, the Department stated that “consistent with our practice, we are rescinding our review for Diler and Ekinciler”). Although Essar did not have any sales or exports of subject merchandise to the United States during the POR, its subject merchandise may have entered the United States during the POR under CBP’s antidumping case number for Essar by way of intermediaries (without Essar’s knowledge). Within 15 days of publication of this notice, the Department will instruct CBP to liquidate such entries at the “all-others” rate in effect on the date of the entry. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Administrative Protective Orders

This notice 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(a)(3). 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 sanctionable violation.

This notice is published in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 6, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-17041 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-822]

Stainless Steel Bar From the United Kingdom: Notice of Extension of Time Limit for Preliminary Results of the 2005-2006 Administration Review

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

EFFECTIVE DATE: October 16, 2006.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4007 or (202) 482-4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 2006, the Department of Commerce ("Department") published in the **Federal Register** a notice of initiation of administrative review of the antidumping duty order on stainless steel bar from the United Kingdom, covering the period March 1, 2005, through February 28, 2006. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 25145 (April 28, 2006). The preliminary results for this administrative review are currently due no later than December 1, 2006.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Extension of Time Limit for Preliminary Results

The Department is in the process of collecting additional information and clarifications of submitted data from the respondent. Furthermore, we require additional time to conduct verifications. Thus, it is not practicable to complete this review within the original time limit (*i.e.*, 245 days). Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days, in accordance with section 751(a)(3)(A) of the Act. The preliminary results are now due not later than March 30, 2007. The final results continue to be due 120 days after publication of the preliminary results.

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

Dated: October 6, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-17129 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-833]

Initiation of Antidumping Duty Changed-Circumstances Review: Stainless Steel Bar From Japan

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

SUMMARY: In accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act), and § 351.216(b) of the Department of Commerce's (the Department's) regulations, TRW Fuji Valve, Inc. (TRW), a U.S. importer, filed a request for a changed-circumstances review of the antidumping duty order on stainless steel bar from Japan. The petitioners and domestic interested parties have affirmatively expressed a lack of interest in the continuation of the order with respect to 21-2N modified valve/stem stainless steel round bar.¹ In response to this request, the Department is initiating a changed-circumstances review of the order on stainless steel bar from Japan with respect to this product as described below.

EFFECTIVE DATE: October 16, 2006.

¹ The petitioners and domestic interested parties include Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., North American Stainless, Universal Stainless and Alloy Products, Inc., and Valbruna Slater Stainless, Inc.

FOR FURTHER INFORMATION CONTACT:

Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-1690.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2006, TRW² requested that the Department conduct a changed-circumstances review of the order on stainless steel bar from Japan and exclude a product to which it referred as 21-2N modified valve/stem stainless steel round bar from the scope of the order. See TRW's letter to the Secretary, dated August 28, 2006. Specifically, TRW requested that the Department exclude imports meeting the following description from the order on stainless steel bar from Japan: certain valve/stem stainless steel round bar of 21-2N modified grade, having a diameter of 5.7 millimeters (with a tolerance of 0.025 millimeters), in length no greater than 15 meters, having a chemical composition consisting of a minimum of 0.50 percent and a maximum of 0.60 percent of carbon, a minimum of 7.50 percent and a maximum of 9.50 percent of manganese, a maximum of 0.25 percent of silicon, a maximum of 0.04 percent of phosphorus, a maximum of 0.03 percent of sulfur, a minimum of 20.0 percent and a maximum of 22.00 percent of chromium, a minimum of 2.00 percent and a maximum of 3.00 percent of nickel, a minimum of 0.20 percent and a maximum of 0.40 percent of nitrogen, a minimum of 0.85 percent of the combined content of carbon and nitrogen, and a balance minimum of iron, having a maximum core hardness of 385 HB and a maximum surface hardness of 425 HB, with a minimum hardness of 270 HB for annealed material. See TRW's letter to the Secretary, dated August 28, 2006. TRW requested that the Department revoke the order in part retroactively to February 1, 2006, the beginning of the anniversary month of the order. TRW stated that the steel product in question is not produced in commercial quantities in the United States.

On September 18, 2006, the petitioners and domestic interested parties provided a letter attesting to

² In its August 28, 2006, request TRW did not identify the sub-section of the term "interested party," as defined by section 771(9) of the Act, which applies to TRW. In response to our September 21, 2006, request for clarification, in its September 25, 2006, response TRW identified itself as a U.S. importer of the subject merchandise.

their expressed lack of interest in having this merchandise, as described above, continue to be subject to the antidumping duty order on stainless steel bar from Japan.

Scope of the Order

The scope of the order covers stainless steel bar (SSB). The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Initiation of Changed-Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed-circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. As stated above, on August 28, 2006, TRW requested a determination by the Department in accordance with 19 CFR 351.216(b) to exclude the product described above from the scope of the order. TRW also requested that

the Department make the revocation effective February 1, 2006.

Pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(b), we are initiating a changed-circumstances review. Although the petitioners and domestic interested parties have expressed a lack of interest in the order with respect to the product in question, they did not claim that they represent substantially all of the production of the domestic like product nor has the Department made such a determination. Interested parties are invited to comment on this initiation or to demonstrate that the petitioners and domestic interested parties account for substantially all of the production of the domestic like product.

Public Comment

Interested parties may submit comments which the Department will take into account in the preliminary results of this review. The due date for filing any such comments is no later than 15 days after the date of publication of this notice. Responses to those comments may be submitted not later than 7 days following submission of the comments. All written comments must be submitted in accordance with 19 CFR 351.303. The Department will publish in the **Federal Register** a notice of preliminary results of changed-circumstances review in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results. The Department will issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e). This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and § 351.221(b) of the Department's regulations.

Dated: October 10, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-17149 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade

Administration, Department of Commerce.

ACTION: Notice of Decision of Panel.

SUMMARY: On October 6, 2006, the binational panel issued its decision in the full sunset review of the antidumping and countervailing duty determination made by the International Trade Commission, respecting Magnesium from Canada, Secretariat File No. USA-CDA-2000-1904-09. The binational panel affirmed the International Trade Commission determination with two dissenting opinions. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of the final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision: The determination is as follows:

The majority opinion stated that "While the Panel had some reasonable concerns about the evidence supporting the Commission's price underselling finding, the totality of the Commission's determination, including its alternative price depression finding, is reasonable, made in accordance with law, and supported by substantial evidence on the record as a whole. Therefore, the second determination on remand is hereby **AFFIRMED**".

The minority opinion stated "Having reviewed the Commission Second Remand Determination, the briefs,

substantial parts of the Record and the views of the majority, we hold unlawful the Commission's findings as they are unsupported by substantial evidence on the record".

The panel has directed the Secretary to issue a Notice of Final Panel Action on the 11th day following the issuance of the panel decision.

Dated: October 10, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.
[FR Doc. E6-17126 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-GT-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; Allocation of Resources for Fire Service and Emergency Medical Service

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 15, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason D. Averill, Fire Protection Engineer, 100 Bureau Drive, Gaithersburg, MD 20899-8664, (301) 975-2585; or jason.averill@nist.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection will be conducted by the Building and Fire Research Laboratory, a part of the National Institution of Standards and Technology, to establish a technical basis for optimal allocation of fire service and emergency medical service (EMS) resources. Presently, no scientifically-based method exists with which a fire chief or local administrator

may evaluate the capacity of the fire and emergency medical services to respond to risks which are or may be present within the community served. Additionally, there is no validated capability to quantitatively evaluate alternative levels of hazard mitigation or services. This project will provide the technical foundation to model the existing community hazards and response capacity, as well as explore the impact of changes to the service capacity.

II. Method of Collection

Respondents from fire and emergency service districts throughout the United States will record event-specific fire and emergency medical response data through a secure, web-based database program. Respondents are authorized representatives of a fire or EMS district trained in the data entry format required in this data collection. The data will be collected in a statistically representative manner in order to support generalization of the findings to a wide array of communities in the United States.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 128.

Estimated Time Per Response: 10 minutes per response.

Estimated Total Annual Burden Hours: 4,267.

Estimated Total Annual Cost to Public: \$0.00.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 10, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6-17068 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071806C]

Incidental Takes of Marine Mammals Incidental to Specified Activities; Naval Explosive Ordnance Disposal School Training Operations at Eglin Air Force Base, Florida

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Eglin Air Force Base (EAFB) for the take of marine mammals, by Level B harassment only, incidental to Naval Explosive Ordnance Disposal School (NEODS) training operations at EAFB, Florida.

DATES: Effective from October 5, 2006, through October 4, 2007.

ADDRESSES: A copy of the IHA and the application are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (**FOR FURTHER INFORMATION CONTACT**) or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow,

upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The National Defense Authorization Act of 2004 (NDAA) (Public Law 108-136) removed the "small numbers" limitation and amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or

(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On May 2, 2006, NMFS received an application from EAFB requesting re-authorization of their IHA for the harassment, by Level B harassment only, of Atlantic bottlenose dolphins

(*Tursiops truncatus*) and Atlantic spotted dolphins (*Stenella frontalis*) incidental to NEODS training operations at EAFB, Florida, in the northern Gulf of Mexico (GOM). Each of up to six missions per year would include up to five live detonations of approximately 10-lb (4.6-kg) net explosive weight charges to occur in approximately 60-ft (18.3-m) deep water from one to three nm (1.9 to 5.6 km) off shore.

Because the relative low cost and ease of use of mines lends itself to use by an array of transnational, rogue, and subnational adversaries that now pose the most immediate threat to American interests and because NEODS supports the Naval Fleet by providing training to personnel from all four armed services, civil officials, and military students from over 70 countries, this activity constitutes a "military readiness activity" pursuant to Section 315(f) of the NDAA.

Specified Activities

The mission of NEODS is to train personnel to detect, recover, identify, evaluate, render safe, and dispose of unexploded ordnance (UXO) that constitutes a threat to people, material, installations, ships, aircraft, and operations. The NEODS plans to utilize three areas within the Eglin Gulf Test and Training Range (EGTTR), consisting of approximately 86,000 mi² (222,739 km²) within the GOM and the airspace above, for Mine Countermeasures (MCM) detonations, which involve mine-hunting and mine-clearance operations. The detonation of small, live explosive charges disables the function of the mines, which are inert for training purposes. The training would occur approximately one to three nautical miles (nm) (1.9 to 5.6 km) offshore of Santa Rosa Island (SRI) six times annually, at varying times within the year.

Each of the six training classes would include one or two "Live Demolition Days." During each set of Live Demolition Days, five inert mines would be placed in a compact area on the sea floor in approximately 60 ft (18.3 m) of water. Divers would locate the mines by hand-held sonars. The AN/PQS-2A hand-held acoustic locator has a sound pressure level (SPL) of 178.5 re 1 μPascal @ 1 meter and the Dukane Underwater Acoustic Locator has a SPL of 157-160.5 re 1 μPascal @ 1 meter. Because output from these hand-held sound sources would attenuate to below any current threshold for protected species within approximately 10-15 m, noise impacts are not anticipated and are not addressed further in this analysis.

Five charges packed with five lbs (2.3 kg) of C-4 explosive material will be set up adjacent to each of the mines. No more than five charges will be detonated over the 2-day period. Detonation times will begin no earlier than 2 hours after sunrise and end no later than 2 hours before dusk and charges utilized within the same hour period will have a maximum separation time of 20 minutes. Mine shapes and debris will be recovered and removed from the water when training is completed. A more detailed description of the work is contained in the application which is available upon request (see ADDRESSES).

Marine Mammals and Habitat Affected by the Activity

Marine mammal species that potentially occur within the EGTTR include several species of cetaceans and the West Indian manatee. While a few manatees may migrate as far north from southern Florida (where there are generally confined in the winter) as Louisiana in the summer, they primarily inhabit coastal and inshore waters and rarely venture offshore. NEODS missions are conducted one to 3 nm (5.6 km) from shore and effects on manatees are therefore considered very unlikely and not discussed further in this analysis.

Cetacean abundance estimates for the project area are derived from GulfCet II aerial surveys conducted from 1996 to 1998 over a 70,470 km² area, including nearly the entire continental shelf region of the EGTTR, which extends approximately 9 nm (16.7 km) from shore. The dwarf and pygmy sperm whales are not included in this analysis because their potential for being found near the project site is remote. Although Atlantic spotted dolphins do not normally inhabit nearshore waters, NMFS has included them in the analysis to ensure conservative mitigation measures are applied. The two marine mammal species expected to be affected by these activities, whose status and distribution were discussed in the proposed IHA (71 FR 43470; August 1, 2006), are the bottlenose dolphin (*Tursiops truncatus*) and the Atlantic spotted dolphin (*Stenella frontalis*). Further descriptions of the biology and local distribution of these species can be found in the application (see ADDRESSES); other sources such as Wursig *et al.* (2000), and the NMFS Stock Assessments, can be viewed at: http://www.NMFS.noaa.gov/pr/PR2/Stock_Assessment_Program/sars.html.

Potential Effects of Activities on Marine Mammals

The primary potential impact to the Atlantic bottlenose and the Atlantic spotted dolphins occurring in the EGTR from the planned detonations is Level B harassment from noise. In the absence of any mitigation or monitoring measures, there is a very small chance that a marine mammal could be injured or killed when exposed to the energy generated from an explosive force on the sea floor. However, NMFS believes the required mitigation measures will preclude this possibility in the case of this particular activity. Analysis of NEODS noise impacts to cetaceans was based on criteria and thresholds initially presented in U.S. Navy Environmental Impact Statements for ship shock trials of the SEAWOLF submarine and the WINSTON CHURCHILL vessel and subsequently adopted by NMFS.

Non-lethal injurious impacts (Level A Harassment) are defined in EAFB's application and this document as tympanic membrane (TM) rupture and the onset of slight lung injury. The threshold for Level A Harassment corresponds to a 50-percent rate of TM rupture, which can be stated in terms of an energy flux density (EFD) value of 205 dB re 1 μPa^2 s. TM rupture is well-correlated with permanent hearing impairment (Ketten (1998) indicates a 30-percent incidence of permanent threshold shift (PTS) at the same threshold). The zone of influence (ZOI) (farthest distance from the source at which an animal is exposed to the EFD level referred to) for the Level A Harassment threshold is 52 m (172 ft).

Level B (non-injurious) Harassment includes temporary (auditory) threshold shift (TTS), a slight, recoverable loss of hearing sensitivity. One criterion used for TTS is 182 dB re 1 μPa^2 s maximum EFD level in any 1/3-octave band above 100 Hz for toothed whales (e.g., dolphins). The ZOI for this threshold is 230 m (754 ft). A second criterion, 23 psi, has recently been established by NMFS to provide a more conservative range for TTS when the explosive or animal approaches the sea surface, in which case explosive energy is reduced, but the peak pressure is not. The ZOI for 23 psi is 222 m (728 ft) (NMFS will apply the more conservative of these two).

Level B Harassment also includes behavioral modifications resulting from repeated noise exposures (below TTS) to the same animals (usually resident) over a relatively short period of time. Threshold criteria for this particular type of harassment are currently still under debate. One recommendation is a

level of 6 dB below TTS (see 69 FR 21816, April 22, 2004), which would be 176 dB re 1 μPa^2 s. However, due to the infrequency of the detonations, the potential variability in target locations, and the continuous movement of marine mammals off the northern Gulf, NMFS believes that behavioral modification from repeated exposures to the same animal is highly unlikely.

Comments and Responses

On August 1, 2006, NMFS published in the **Federal Register** a notice of a proposed IHA for EAFB's request to take marine mammals incidental to NEODS training exercises in the GOM, and requested comments regarding this request (See 71 FR 43470). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission). In addition, NMFS received comments from one member of the public who objected to the killing of marine mammals. However, NMFS is not authorizing the killing of marine mammals and, therefore, that comment is not addressed further.

Comment 1: The Commission recommends NMFS grant the requested authorizations provided that Eglin AFB conduct all practicable monitoring and mitigation measures to afford the potentially affected marine mammal species adequate protection from serious and lethal injury.

Response: NMFS believes that the IHA includes all practicable monitoring and mitigation measures to avoid serious or lethal injury of marine mammals, and we believe that they will be effective. The radius around the site of the explosion where the animals could potentially be injured is 52 m, and animals would have to be significantly closer than that for the potential for serious injury or death to occur. MMOs will be monitoring a 460-m radius area for the entire 15 minutes leading up to the detonation and the operation will be postponed if animals are seen within the 230-dB ZOI or if large schools of fish, which could attract the delphinids, are seen within the ZOI.

Comment 2: The Commission recommends that NEODS training operations be suspended immediately if a seriously injured or dead marine mammal is found in the vicinity of the operations and the death or injury could be attributable to the NEODS activities. Further, the Commission recommends that any suspension should remain in place until NMFS has (1) reviewed the situation and determined that further deaths or serious injuries are unlikely to occur or (2) issued regulations

authorizing such takes under section 101(a)(5)(A) of the MMPA.

Response: NMFS concurs with the Commission's recommendation and will include this provision in the IHA.

Comment 3: The Commission also resubmitted the identical comments it submitted on the 2005 NEODS IHA.

Response: NMFS stated the Commission's concerns and addressed them in the **Federal Register** notice announcing the issuance of the 2005 IHA (70 FR 51341; August 30, 2005), and they may be referenced there.

Numbers of Marine Mammals Estimated To Be Harassed

Estimates of the potential number of Atlantic bottlenose dolphins and Atlantic spotted dolphins to be harassed by the training were calculated using the number of distinct firing or test events (maximum 30 per year), the ZOI for noise exposure, and the density of animals that potentially occur in the ZOI. The take estimates provided here do not include mitigation measures, which are expected to further minimize impacts to protected species and make injury or death highly unlikely.

The estimated number of Atlantic bottlenose dolphins and Atlantic spotted dolphins potentially taken through exposure to the Level A Harassment threshold (205 dB re 1 μPa^2 s), are less than one (0.22 and 0.19, respectively) annually.

For Level B Harassment, two separate criteria were established, one expressed in dB re 1 μPa^2 s maximum EFD level in any 1/3-octave band above 100 Hz, and one expressed in psi. The estimated numbers of Atlantic bottlenose dolphins and Atlantic spotted dolphins potentially taken through exposure to 182 dB are 4 and 3 individuals, respectively. The estimated numbers potentially taken through exposure to 23 psi are also 4 and 3 individuals, respectively.

Possible Effects of Activities on Marine Mammal Habitat

NMFS anticipates no loss or modification to the habitat used by Atlantic bottlenose dolphins or Atlantic spotted dolphins in the EGTR. The primary source of marine mammal habitat impact resulting from the NEODS missions is noise, which is intermittent (maximum 30 times per year) and of limited duration. The effects of debris (which will be recovered following test activities), ordnance, fuel, and chemical residues were analyzed in the NEODS Biological Assessment and the Air Force concluded that marine mammal habitat would not be affected.

Mitigation and Monitoring

Mitigation will consist primarily of surveying and taking action to avoid detonating charges when protected species are within the ZOI. A trained, NMFS-approved observer will be staged from the highest point possible on a support ship and have proper lines of communication to the Officer in Tactical Command. The survey area will be 460 m (1509 ft) in every direction from the target, which is twice the radius of the ZOI for Level B Harassment (230 m (755 ft)). To ensure visibility of marine mammals to observers, NEODS missions will be delayed if whitecaps cover more than 50 percent of the surface or if the waves are greater than 3 feet (Beaufort Sea State 4).

Pre-mission monitoring will be used to evaluate the test site for environmental suitability of the mission. Visual surveys will be conducted two hours, one hour, and the entire 15 minutes prior to the mission to verify that the ZOI (230 m (755 ft)) is free of visually detectable marine mammals and large schools of fish, and that the weather is adequate to support visual surveys. The observer will plot and record sightings, bearing, and time for all marine mammals detected, which would allow the observer to determine if the animal is likely to enter the test area during detonation. If a marine mammal appears likely to enter the test area during detonation, if large schools of fish are present, or if the weather is inadequate to support monitoring, the observer will declare the range fouled and the tactical officer will implement a hold until monitoring indicates that the test area is and will remain clear of detectable marine mammals.

Monitoring of the test area will continue throughout the mission until the last detonation is complete. The mission would be postponed if:

(1) Any marine mammal is visually detected within the ZOI (230 m (755 ft)). The delay would continue until the animal that caused the postponement is confirmed to be outside the ZOI (visually observed swimming out of the range).

(2) Any marine mammal is detected in the ZOI and subsequently is not seen again. The mission would not continue until the last verified location is outside of the ZOI and the animal is moving away from the mission area.

(3) Large schools of fish are observed in the water within of the ZOI. The delay would continue until large fish schools are confirmed to be outside the ZOI.

In the event of a postponement, pre-mission monitoring would continue as

long as weather and daylight hours allow. If a charge failed to explode, mitigation measures would continue while operations personnel attempted to recognize and solve the problem (e.g., detonate the charge).

Post-mission monitoring is designed to determine the effectiveness of pre-mission mitigation by reporting any sightings of dead or injured marine mammals. Post-detonation monitoring, concentrating on the area down current of the test site, would commence immediately following each detonation and continue for at least two hours after the last detonation. The monitoring team would document and report to the appropriate marine animal stranding network any marine mammals killed or injured during the test and, if practicable, recover and examine any dead animals. The species, number, location, and behavior of any animals observed by the teams would be documented and reported to the Officer in Tactical Command.

Additionally, in the unlikely event that a seriously injured or dead marine mammal is found in the vicinity of the operations and the death or injury could be attributable to the NEODS activities, training operations will be suspended and NMFS contacted immediately. This suspension would remain in place until the Service has (1) reviewed the situation and determined that further deaths or serious injuries are unlikely to occur or (2) issued regulations authorizing such takes under section 101(a)(5)(A) of the MMPA.

Reporting

The Air Force will notify NMFS 2 weeks prior to initiation of each training session. Any takes of marine mammals other than those authorized by the IHA, as well as any injuries or deaths of marine mammals, will be reported to the Southeast Regional Administrator, NMFS, within 24 hours. A summary of mission observations and test results, including dates and times of detonations as well as pre- and post-mission monitoring observations, will be submitted to the Southeast Regional Office (NMFS) and to the Division of Permits, Conservation, and Education, Office of Protected Resources (NMFS) within 90 days after the completion of the last training session.

Endangered Species Act

In a Biological Opinion issued on October 25, 2004, NMFS concluded that the NEODS training missions and their associated actions are not likely to jeopardize the continued existence of threatened or endangered species under the jurisdiction of NMFS or destroy or

adversely modify critical habitat that has been designated for those species. NMFS has issued an incidental take statement (ITS) for NEODS for sea turtles pursuant to section 7 of the Endangered Species Act. The ITS contains reasonable and prudent measures with implementing terms and conditions to minimize the effects of this take. This IHA action is within the scope of the previously analyzed action and does not change the action in a manner that was not considered previously.

National Environmental Policy Act

In 2005, NMFS prepared an Environmental Assessment (EA) on the Issuance of Authorizations to Take Marine Mammals, by Harassment, Incidental to Naval Explosive Ordnance Disposal School Training Operations at Eglin Air Force Base, Florida, and subsequently issued a Finding of No Significant Impact (FONSI). This IHA action is within the scope of the previously analyzed action and does not change the action in a manner that was not considered previously. Therefore, preparation of an EIS on this action is not required by NEPA or its implementing regulations.

Conclusions

NMFS has issued an IHA to the Air Force for the NEODS training missions to take place at EAFB over a 1-year period. The issuance of this IHA is contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has determined that the NEODS training, which entails up to six missions per year, including up to five live detonations per mission of approximately 5-lb (2.3 kg) net explosive weight charges to occur in approximately 60-foot (18 m) deep water from one to three nm off shore, will result in the Level B harassment of Atlantic bottlenose dolphins and Atlantic spotted dolphins (less than 0.0002 percent of the population for each species, and perhaps 1–2 percent of an inshore stock of bottlenose dolphin, if one of them were harassed) and will have a negligible impact on these marine mammal species and stocks. While behavioral modifications may be made by Atlantic bottlenose dolphins and Atlantic spotted dolphins to avoid the resultant acoustic stimuli, when the potential density of dolphins in the area and the required mitigation and monitoring are taken into consideration NMFS does expect any injury or mortality to result. The effects of the NEODS training are expected to be limited to short-term and localized

TTS-related behavioral changes. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the NEODS test sites.

Authorization

As a result of these determinations, NMFS proposes to issue an IHA to the Air Force for NEODS training operations at EAFB, Florida, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: October 5, 2006.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. E6-17127 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101006D]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene one public meeting of the Ad Hoc Shrimp Effort Working Group (SEWG).

DATES: The SEWG meeting will convene at 9 a.m. on Thursday, November 2, 2006 and conclude no later than 3 p.m. on Friday, November 3, 2006.

ADDRESSES: The meeting will be held at the NMFS Galveston Laboratory, Building 216, 4700 Avenue U, Galveston, TX.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Assane Diagne, Economist, telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene one meeting of the Ad Hoc Shrimp Effort Working Group (SEWG) to evaluate shrimp effort in the Exclusive Economic Zone (EEZ) of the Gulf of Mexico. The working group, appointed by the Council during its March 2006, regular meeting, is charged with providing the Council with alternatives for determining the

appropriate level of effort in the shrimp fishery in the EEZ. The group will also discuss the level of effort necessary to achieve optimum yield in the shrimp fishery and what level of effort would derive the maximum benefits of that fishery. The SEWG includes fishery biologists, economists and others knowledgeable about shrimp effort in the Gulf of Mexico.

Although other non-emergency issues not on the agenda may come before the SEWG for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the SEWG will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling (813) 348-1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: October 11, 2006.

Tracey L. Thompson,

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

[FR Doc. E6-17074 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101006C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) to convene a workgroup of its Socioeconomic Panel (SEP) via conference call.

DATES: The conference call will be held November 2, 2006, at 11 a.m. EDT.

ADDRESSES: The meeting will be held via conference call and listening stations will be available. For specific locations see **SUPPLEMENTARY INFORMATION**.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Assane Diagne, Economist, Gulf of Mexico Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The conference call will begin at 11 a.m. EDT and conclude no later than 1 p.m. EDT. Listening stations are available at the following locations:

The Gulf Council office (see **ADDRESSES**), and

The National Marine Fisheries Service office, 263 13th Avenue South, St. Petersburg, FL 33701; Contact: Stephen Holiman, (727) 551-5719.

The SEP workgroup will hold a conference call to discuss methods and data needed to evaluate total allowable catch (TAC) allocations between the recreational and commercial sectors.

Although other non-emergency issues not on the agenda may come before the SEP workgroup for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during the meeting. Actions will be restricted to the issue specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the SEP workgroup's intent to take action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: October 11, 2006.

Tracey L. Thompson,

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

[FR Doc. E6-17075 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 101006B]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Friday, November 3, 2006, at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535-4600.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

The Groundfish Oversight Committee will meet to continue work on the adjustment to the Northeast Multispecies Fishery Management Plan that is planned for implementation on May 1, 2009. This adjustment will adopt management measures necessary to continue the stock rebuilding programs that were adopted in 2004 by Amendment 13. For this action the Council is planning to submit an amendment supported by an Environmental Impact Statement (EIS). A notice of intent will be published announcing plans to prepare an EIS and announcing the scoping period and a series of scoping meetings. In order to facilitate informed comments during the scoping period, the Council plans to prepare a scoping document that will describe the standards and/or requirements that should be considered when submitting comments. At this meeting, the Committee will develop advice for the Council to consider when establishing those standards. This Committee meeting will be held in the form of a workshop. Committee members will be assigned to working groups that will be assisted by the participation of members of the

Groundfish Advisory Panel, Recreational Advisory Panel, and Groundfish Plan Development Team. The Committee may also consider other business after the workshop discussions are concluded. Workshop discussions will be reported to the Council on November 14-16, 2006. After the Council reviews and acts on the Committee recommendations, a scoping document will be prepared and published.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's 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 Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: October 11, 2006.

Tracey L. Thompson,

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

[FR Doc. E6-17073 Filed 10-13-06; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE**Department of the Air Force****Notice is Given of the Names of Members of a Performance Review Board for the Department of the Air Force**

AGENCY: Department of the Air Force.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Air Force. Effective Date is November 16, 2006.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives'

performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the U.S. Air Force are:

1. Board President—Gen Norton A. Schwartz, USTRANSCOM/CC.
2. Lt Gen Donald J. Hoffman, Military Deputy Assistant Secretary of the Air Force (Acquisition).
3. Lt Gen Stephen R. Lorenz, Commander, Air University.
4. Mr Roger M. Blanchard, Assistant Deputy Chief of Staff, Personnel, Headquarters, U.S. Air Force.
5. Mrs Barbara A. Westgate, Executive Director, Air Force Materiel Command.
6. Mr Robert E. Dawes, Auditor General of the Air Force, Secretary of the Air Force.
7. Mr Charlie E. Williams, Jr., Deputy Assistant Secretary (Contracting), Secretary of the Air Force.
8. Mr Kenneth Percell, Executive Director, Warner Robins Air Logistics Center.
9. Mr John Salvatori, Director, Intell Systems Support Office (ISSO).
10. RADM Donna L. Crisp, Director for Manpower and Personnel, J1, The Joint Staff.
11. Mr John Argodale, Deputy Assistant Secretary of the Army (Financial Operations) OASA (Financial Management & Comptroller).
12. Ms Mary George, Deputy Director for Information Operations and Reports, Washington Headquarters Services.
13. Ms Ellen E. McCarthy, Director, Personnel Development and Readiness, Office of the Under Secretary of Defense for Intelligence, Department of Defense.

FOR FURTHER INFORMATION CONTACT:

Please direct any written comments or requests for information to Mr. Greg Price, Senior Leader Management, AF/DPS, 1040 Air Force Pentagon, Washington, DC 20330-1040 (PH: 703-697-8332; gregory.price@pentagon.af.mil).

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E6-17089 Filed 10-13-06; 8:45 am]

BILLING CODE 5001-05-P

DEPARTMENT OF DEFENSE**Department of the Army****Notice of Availability of the Fort Bliss, Texas and New Mexico, Mission Master Plan Supplemental Programmatic Environmental Impact Statement**

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of a Draft Supplemental Programmatic Environmental Impact Statement (DSEIS) identifying the potential environmental effects of changing land and airspace use at Fort Bliss to support evolving changes in missions and units and support Army Transformation, Integrated Global Presence and Basing Strategy, Base Realignment And Closure (BRAC), the Army Campaign Plan and other Army initiatives.

The SEIS will supplement the *Fort Bliss, Texas and New Mexico, Mission Master Plan Programmatic Environmental Impact Statement* (PEIS), for which a Record of Decision was signed in 2001.

DATES: The public comment period for the DSEIS will end 60 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Written comments should be sent to: Mr. John F. Barrera, Directorate of Environment, B624 Pleasonton Avenue, Attention: IMSW-BLS-Z, (barreraj), Forest Bliss, TX 79916-6812; facsimile: (915) 568-3548; e-mail: SEIS@bliss.army.mil.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Offutt, Public Affairs Officer, IMSW-BLS-PA; Fort Bliss, TX 79916-6812; telephone: (915) 568-6812; fax: (915) 568-2995; e-mail: jean.offutt@bliss.army.mil.

SUPPLEMENTARY INFORMATION: The Proposed Action would change land use in the Main Cantonment to support units assigned to Fort Bliss under BRAC, and in the Fort Bliss Training Complex to support construction of live-fire ranges and off-road maneuver space needed to train soldiers to doctrinal standards. In addition to the Proposed Action, the DSEIS analyzes the environmental affects of three other action alternatives and a no action alternative.

The action alternatives differ in the amount (216,000–352,000 acres) and location of land in the Tularosa Basin portion of McGregor Range proposed for off road maneuver, resulting in varied abilities to meet the defined need for maneuver training, accommodate units and missions in addition to the BRAC package, and flexibility to meet future requirements. Those portions of McGregor Range outside the Tularosa basin, specifically Otero Mesa and the Sacramento Mountain foothills, will not experience changes in land use.

Issues associated with land use changes in the Training Complex include potential impacts to natural resources and cultural resources,

potential land use conflicts with grazing portions of the off-road maneuver space on McGregor Range, access to roads to the Forest Service grazing allotments on McGregor Range, recreational use of McGregor Range, and closures of NM Highway 506. Noise issues are part of the upgrade, or construction of firing ranges.

Issues associated with land use changes and construction in the Main Cantonment include potential increases in noise and dust, and transportation issues. Socioeconomic issues include population growth and development, public services and utilities, education, and quality of life.

Alternative four, the Proposed Action, is anticipated to generate substantial economic benefits and significantly affect population growth and development, traffic, utility demands, and demand for public and medical services in the region. Expansion of off-road vehicle maneuver training into the Tularosa Basin portion of McGregor Range, along with increased maneuvers in the North and South Training Areas, is expected to increase wind and water erosion and will likely result in long-term changes in vegetation communities in the more intensely used training areas. Training related noise is also expected to increase in areas adjacent to Doña Ana Range and portions of McGregor Range.

Copies of the Draft SEIS are available for review at the following libraries: In El Paso, the Richard Burges Regional Library, 9600 Dyer; the Irving Schwartz Branch Library, 1865 Dean Martin; the Clardy Fox Branch Library, 5515 Robert Alva; and the Doris van Doren Regional Branch Library, 551 Redd Road. In Las Cruces, NM, the New Mexico State University Zuhl Library at 2999 McFie Circle; and in Alamogordo, NM at the Alamogordo Public Library, 920 Oregon Avenue. The document can also be reviewed at <https://www.bliss.army.mil>.

Public meetings will be announced through regional newspapers and other public affairs outlets. These public meetings will be held in El Paso, Las Cruces and Alamogordo to accept comments on the DSEIS, and are expected to occur in November 2006.

Dated: October 5, 2006.

John A. Macdonald,

Brigadier General, U.S. Army, Director, Installation Management Agency.

[FR Doc. 06-8667 Filed 10-13-06; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Naval Research Advisory Committee; Correction

AGENCY: Department of the Navy, DoD.

ACTION: Notice of closed meeting; correction.

SUMMARY: The Department of Defense published a notice in the **Federal Register** on August 4, 2006, concerning a request for the Naval Research Advisory Committee (NRAC) to meet and discuss classified information from government organizations. All sessions of the meeting will be devoted to briefings, discussions, and technical examination of issues related to maritime strategy and Department of the Navy plans, programs, and objectives. It is envisioned that these discussions will enable the NRAC to identify technology gaps where additional science and technology investment may be needed to satisfy current and projected Navy and Marine Corps requirements. The meeting date has been changed to a new date and time.

DATES: The meeting will be held on Wednesday, October 25, 2006, from 9:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Pentagon, Room 4B552A, Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Dr. Sujata Millick, Program Director, Naval Research Advisory Committee, 875 North Randolph Street, Arlington, VA 22203-1995, 703-696-6769.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meeting will be devoted to executive sessions that will include discussion and technical examination of information related to forthcoming NRAC studies. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to remain classified in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portions of the meeting. In accordance with 5 U.S.C. App. 2, Sec. 10(d), the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and (4).

Dated: October 10, 2006.

M.A. Harvison,

*Lieutenant Commander, Judge Advocate
General's Corps, U.S. Navy, Federal Register
Liaison Officer.*

[FR Doc. E6-17088 Filed 10-13-06; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 15, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the

Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 10, 2006.

Angela C. Arrington,

*IC Clearance Official, Regulatory Information
Management Services, Office of Management.*

Institute of Education Sciences

Type of Review: Extension.

Title: Social and Character

Development Research Program
National Evaluation.

Frequency: On Occasion.

Affected Public: Not-for-profit
institutions; Individuals or household.

*Reporting and Recordkeeping Hour
Burden:*

Responses: 22,587.

Burden Hours: 15,632.

Abstract: The SACD National Evaluation will evaluate seven school-based interventions designed to promote positive social and character development among elementary school children and determine, through randomized field trials, whether the interventions produce meaningful effects. The primary research questions are: (1) Do the SACD interventions affect social-emotional competence, school climate, positive and negative behavior, and academic achievement? (2) For whom, and under what conditions, are the interventions effective? and (3) What is the process by which the interventions affect children's behavior? Data collection activities will include the administration of surveys to children, teachers, principals, and primary caregivers; school observations, and school record abstractions over a three year period: from 2004-05 to 2006-07. Results from the evaluation will provide education professionals with information they need to make informed choices about which intervention to adopt.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3214. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-245-6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements

should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E6-17061 Filed 10-13-06; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 15, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be

collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 10, 2006.

Angela C. Arrington,
IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: Follow Up to the Even Start Classroom Literacy Interventions and Outcomes Study.

Frequency: Annually.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,015.

Burden Hours: 967.

Abstract: The original Follow Up to the Even Start Classroom Literacy Interventions and Outcomes (CLIO) Study examined enhanced family literacy interventions in Even Start and impacts on parent and child outcomes during the intervention period. The CLIO follow-up study will explore whether effects from preschool are sustained through the early school years.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3215. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-245-6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E6-17062 Filed 10-13-06; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 15, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) How might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 10, 2006.

Angela C. Arrington,
IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Midwest Regional Educational Laboratory Needs Assessment and Focus Groups.

Frequency: Monthly.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household; Businesses or other for-profit; Not-for-profit institutions; Farms; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 2,840.

Burden Hours: 993.

Abstract: Documentation included in this submission include data collection instruments and sample designs for gathering information about the educational needs of state departments, districts, schools, and other educational stakeholders in the Midwest region. Information regarding regional needs is gathered as part of Task 1.1 of the Midwest Regional Laboratory contract and will be used to set priorities for selecting content on particular issues, practices, and policies that warrant attention. Analyses of regional educational needs assessments will be used to identify training, technical assistance priorities and needs, to monitor such needs and activities, and to ensure that the activities respond to the region's needs.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3213. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-245-6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E6-17076 Filed 10-13-06; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**The Historically Black Colleges and Universities Capital Financing Advisory Board**

AGENCY: The Historically Black Colleges and Universities Capital Financing Board, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Historically Black Colleges and Universities Capital Financing Advisory Board. The notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

FOR FURTHER INFORMATION CONTACT: Steven Pappas, Executive Director, Historically Black Colleges and Universities Capital Financing Program, 1990 K Street, NW., Washington, DC 20006; telephone: 202 502-7566; fax: 202 502-7852; e-mail: Steven.Pappas@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Historically Black Colleges and Universities Capital Financing Advisory Board (Board) is authorized by Title III, Part D, Section 347 of the Higher Education Act of 1965, as amended in 1998 (20 U.S.C. 1066f). The Board is established within the Department of Education to provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on historically black college and university campuses and to advise Congress regarding the progress made in implementing the program. Specifically, the Board will provide advice as to the capital needs of Historically Black Colleges and Universities, how those needs can be met through the program, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

The meeting will be held from 10 a.m. to 3 p.m., Friday, October 27, 2006, at the Gallery Lounge, Blackburn Center, Howard University, 2400 Sixth Street, NW., Washington, DC 20059.

The purpose of this meeting is to review current program activities and to make recommendations to the Secretary

on the current capital needs of Historically Black Colleges and Universities.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistance listening devices, or materials in alternative format) should notify Paula Hill at 202 502-7795, no later than October 23, 2006. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Board proceedings and are available for public inspection at the Office of the Historically Black Colleges and Universities Capital Financing Advisory Board (Board), 1990 K Street, NW., Washington, DC 20006, from the hours of 9 a.m. to 5 p.m., Monday through Friday.

James F. Manning,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. E6-17128 Filed 10-13-06; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[OE Docket No. EA-318]

Application To Export Electric Energy; CSW Power Marketing

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: CSW Power Marketing (CPMI) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before November 15, 2006.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-586-5860).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On September 18, 2006, the Department of Energy (DOE) received an application from CPMI for authority to transmit electric energy from the United States to Mexico as a power marketer. CPMI has requested an electricity export authorization with a 5-year term. CPMI does not own or control any generation, transmission, or distribution assets, nor does it have a franchised service area. The electric energy which CPMI proposes to export to Mexico would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the U.S.

CPMI will arrange for the delivery of exports to Mexico over the international transmission facilities owned by San Diego Gas & Electric Company, El Paso Electric Company, Central Power & Light Company, Sharyland Utilities, and Comision Federal de Electricidad, the national electric utility of Mexico.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by CPMI has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

DOE notes that CPMI shall have no authority to export electricity to Mexico until the conclusion of this proceeding and the issuance of an order granting authority to export.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the dates listed above.

Comments on the CPMI application to export electric energy to Mexico should be clearly marked with Docket No. EA-318. Additional copies are to be filed directly with John C. Crespo, American Electric Power, 155 W. Nationwide Blvd., Suite 500, Columbus, Ohio 43215 and John R. Lilyestrom, Geo. F. Hobday, Jr., Hogan & Hartson, LLP, 555 13th Street, NW., Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at http://www.oe.energy.gov/permitting/electricity_imports_exports.htm, or by e-mailing Odessa Hopkins at Odessa.hopkins@hq.doe.gov.

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

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E6-17093 Filed 10-13-06; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[Docket No. EA-294-A]

Application To Export Electric Energy; TexMex Energy, LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: TexMex Energy, LLC (TexMex) has applied to renew its authorization to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before November 15, 2006.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-586-5860).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On August 25, 2004, the Department of Energy (DOE) issued Order No. EA-294 authorizing TexMex to transmit electric energy from the United States to Mexico for a two-year term. That authorization expired on August 25, 2006.

On September 8, 2006, TexMex filed an application with DOE for renewal of the export authority contained in Order No. EA-294. TexMex proposes to export electric energy to Mexico and to arrange for the delivery of those exports over the

international transmission facilities presently owned by Central Power and Light Company, Sharyland Utilities, and Comision Federal de Electricidad, the national electric utility of Mexico.

In its application TexMex states, without further explanation, that it was unable to file its renewal application prior to the expiration of its current export authorization on August 25, 2006. TexMex requests that its renewal request be granted as soon as possible.

DOE notes that TexMex did not utilize its previous authority to export electricity to Mexico during the two-year term of Order No. EA-294, as verified by quarterly reports filed with DOE by TexMex and as stated in their current renewal application. TexMex's previous authorization permitted an application for renewal to be filed within six months prior to expiration of its authorization on August 25, 2006. Renewal applications must be filed at least sixty days prior to expiration in order to provide DOE with sufficient time to process an application and provide adequate opportunity for public comment.

TexMex has not demonstrated sufficient good cause for DOE to expedite the processing of its renewal application by the use of a shortened public comment period. Therefore, in this notice, DOE has retained the normal thirty-day public comment period for the filing of comments, protests, or petitions to intervene.

DOE notes that TexMex shall have no authority to export electricity to Mexico until the conclusion of this proceeding and the issuance of another order granting authority to export.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the TexMex application to export electric energy to Mexico should be clearly marked with Docket EA-294-A. Additional copies are to be filed directly with Guillermo Gonzalez G., c/o Protama S.A. de C.V., Tonalá 44, Col. Roma, 06700 Mexico D.F., Mexico and Douglas F. John, John & Hengerer, 1200 12th Street, NW., Suite 600, Washington, DC 20036-3013.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant

to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE on whether the proposed action would adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the program's Web site at http://www.oe.energy.gov/permitting/electricity_imports_exports.htm.

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

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E6-17094 Filed 10-13-06; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8231-2; EPA-HQ-Docket ID No. EPA-ORD-2006-0666]

Approaches To Estimating the Waterborne Disease Outbreak Burden in the United States: Uses and Limitations of the Waterborne Disease Outbreak Surveillance System; External Review Draft

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer-review workshop.

SUMMARY: EPA is announcing that Versar, Inc., an EPA contractor for external scientific peer review, will convene an independent panel of experts and organize and conduct a two-day external peer-review workshop to review the external review draft document titled, "Approaches to Estimating the Waterborne Disease Outbreak Burden in the United States: Uses and Limitations of the Waterborne Disease Outbreak Surveillance System" (EPA/600/R-06/069).

On September 15, 2006 (71 FR 54481), EPA announced a 30-day public comment period for the draft document. The public comment period ends October 16, 2006. The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development.

The public comment period and the external peer-review workshop are separate processes that provide opportunities for all interested parties to comment on the document. In addition to consideration by EPA, all public comments submitted in accordance with this notice will also be forwarded to

EPA's contractor for the external peer-review panel prior to the workshop.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This draft document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

Versar, Inc., invites the public to register to attend this workshop as observers. In addition, Versar, Inc., invites the public to give oral and/or provide written comments at the workshop regarding the draft document under review. The draft document and EPA's peer-review charge are available primarily via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at <http://www.epa.gov/ncea>. In preparing a final report, EPA intends to consider Versar, Inc.'s report of the comments and recommendations from the external peer-review workshop and any public comments that EPA receives in accordance with this notice.

DATES: The peer-review panel workshop will begin on October 26, 2006, at 9 a.m. and end on October 27, 2006, at 5 p.m. The second day of the workshop is closed to the public and to EPA so that the peer-review panel members can consider the draft document and prepare their individual comments. On September 15, 2006, EPA announced a thirty-day public comment period for the draft document, which began September 15, 2006, and ends October 16, 2006 (71 FR 54481). Technical comments should be in writing and must be received by EPA by October 16, 2006. For more information on how to submit comments, please refer to the September 15, 2006, **Federal Register** notice (71 FR 54481).

ADDRESSES: The peer-review workshop will be held at the U.S. EPA, Andrew W. Breidenbach Environmental Research Center (AWBERC) Building, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. The EPA contractor, Versar, Inc., is organizing, convening, and conducting the peer-review workshop. To attend the workshop, register by October 20, 2006, by visiting <http://epa.versar.com/waterborne>. You can also register by calling Keith E. Drewes at Versar, Inc. (386) 852-8322, sending a facsimile to (386) 322-6051, or sending an e-mail to drewekei@versar.com.

The draft document, "Approaches to Estimating the Waterborne Disease Outbreak Burden in the United States: Uses and Limitations of the Waterborne

Disease Outbreak Surveillance System," is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and the Data and Publications menus at <http://www.epa.gov/ncea>. A limited number of paper copies are available from the Technical Information Staff, NCEA-Cincinnati by telephone: (513) 569-7257 or by facsimile: (513) 569-7916. If you are requesting a paper copy, please provide your name, mailing address, and the document title, "Approaches to Estimating the Waterborne Disease Outbreak Burden in the United States: Uses and Limitations of the Waterborne Disease Outbreak Surveillance System." Copies are not available from Versar, Inc.

FOR FURTHER INFORMATION CONTACT:

Questions regarding information, registration, and logistics for the external peer-review workshop should be directed to Keith E. Drewes of Versar, Inc., via e-mail: drewekei@versar.com, telephone: (386) 852-8322, or facsimile: (386) 322-6051.

For information on the public comment period, contact the Office of Environmental Information Docket by telephone: (202) 566-1752, facsimile: (202) 566-1753, or e-mail: ORD.Docket@epa.gov.

If you need technical information about the document, please contact Glenn Rice, National Center for Environmental Assessment (NCEA), by telephone: (513) 569-7813, facsimile: (513) 487-2539, or e-mail: rice.glenn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Project/Document

Information about waterborne disease outbreaks (WBDOs) in the United States is voluntarily reported by State, territorial and local public health agencies to the Centers for Disease Control and Prevention (CDC). CDC and EPA jointly maintain a WBDO database. The database describes outbreak attributes including, among other things, the drinking water system deficiency, the etiologic agent, and the number of individuals who became ill. Underreporting of such events is assumed but the magnitude of underreporting is unknown.

This draft document presents an approach for estimating the epidemiologic and economic burden of disease associated with 665 WBDOs reported in the U.S. between 1971 and 2000. The term *disease burden* broadly refers to the magnitude of the impact incurred by society as a consequence of

disease in the community (e.g., decrements in a population's health or the associated economic effects) and there are various metrics that can be employed by analysts to quantify burden. In order to capture some of the benefits of drinking water regulations, EPA has typically expressed waterborne disease impacts in terms of epidemiologic and monetary measures; this WBDO burden analysis employs those same measures. Because not all WBDOs in the United States and associated cases of illness are reported, the WBDO database on which this draft document is based is not comprehensive. The extent to which WBDOs are not recognized is unknown and is not examined in this analysis. This draft report develops several quantitative sensitivity analyses to characterize some of the uncertainty in the burden estimates but does not provide an evaluation of the potential impact of under- or overreporting of WBDOs or their associated severity characteristics. The draft report includes recommendations for the collection and reporting of additional outbreak information that would improve the usefulness of the WBDO database for future disease burden estimates.

II. Workshop Information

Members of the public may attend the workshop as observers, and there will be a limited time for comments from the public in the afternoon. Please let Versar, Inc., know if you wish to make comments during the workshop. Space is limited, and reservations will be accepted on a first-come, first-served basis. The second day of the workshop is closed to the public and to EPA so that the peer-review panel members can consider the draft document and prepare their individual comments.

Dated: October 10, 2006.

George Alapas,

Director, National Center for Environmental Assessment.

[FR Doc. E6-17098 Filed 10-13-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2005-0039; FRL-8231-3]

Request for Nominations of Drinking Water Contaminants for the Contaminant Candidate List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is requesting nominations

of chemical and microbial contaminants for possible inclusion in the third drinking water Contaminant Candidate List (CCL 3). EPA is also requesting information that shows the nominated contaminant may have an adverse health effect on people and the contaminant occurs or is likely to occur in public water systems.

DATES: Nominations must be received on or before December 15, 2006.

ADDRESSES: Submit your nominations to the CCL3 Nominations Web site <http://www.epa.gov/safewater/ccl/ccl3.html> by following the on-line instructions for submitting nominations or mail to CCL Nominations, Environmental Protection Agency, Mail Code: 4607M, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For general information contact the EPA Safe Drinking Water Hotline at (800) 426-4791 or e-mail: hotline-sdwa@epa.gov. For technical questions about this notice contact Clifton Townsend, Standards and Risk Management Division, Office of Ground Water and Drinking Water, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-1576; e-mail address: townsend.clifton@epa.gov. For technical inquiries regarding EPA's CCL 3 Nominations Web site, please contact Zeno Bain at (202) 564-5970 or e-mail: bain.zeno@epa.gov.

SUPPLEMENTARY INFORMATION

I. General Information

A. Does This Action Apply to Me

This action requests drinking water contaminant candidate nominations and provides information on how the public can submit nominations to the Agency.

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 ID No. EPA-HQ-OW-2005-0039. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Water Docket in the EPA Docket Center.

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 54815 (September 19, 2006)

or the EPA Web site at <http://www.epa.gov/epahome/dockets.htm> for current information on docket status, locations and telephone numbers.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

II. Background

A. What Is the CCL?

There are thousands of naturally occurring and man-made contaminants that have the potential to enter sources of drinking water (e.g., pesticides, pharmaceuticals, personal care products, industrial chemicals). Some of these contaminants may pose no risk to human health, but others may cause cancer or have endocrine disrupting, reproductive, or developmental effects. Naturally occurring microbial contaminants may also cause acute illness. To ensure that public health is protected, EPA must assess the universe of unregulated drinking water contaminants to determine if they may require regulation under the Safe Drinking Water Act (SDWA).

The CCL is the primary vehicle used by EPA to target and prioritize unregulated contaminants in drinking water for research and analysis to determine which new contaminants should be regulated. SDWA requires that EPA publish, every five years, a list of unregulated chemical and microbial contaminants that are known or anticipated to occur in public water systems and which may require regulation under the Safe Drinking Water Act (SDWA Section 1412(b)(1)). EPA is also required to consult with the scientific community and provide notice and opportunity for public comment prior to publication of the CCL.

SDWA also requires EPA to determine whether to regulate at least five contaminants from the CCL every five years. In making regulatory determinations, the Agency must consider the following three statutory criteria:

1. Is the contaminant likely to cause an adverse effect on the health of persons?
2. Is the contaminant known or likely to occur in public water systems at a frequency and level of concern?
3. Does regulation of the contaminant present a meaningful opportunity for health risk reduction for persons served by public water systems?

B. How Did EPA Develop Previous Contaminant Candidate Lists?

The first CCL (CCL 1) was published on March 2, 1998 (63 FR 10273). The contaminants were categorized based on four priority areas in drinking water research: occurrence, health effects, treatment, and analytical methods. CCL 1 was developed based on a review by technical experts of readily available information and contained 50 chemicals and 10 microbial contaminants. EPA consulted with the scientific community and the National Drinking Water Advisory Council (NDWAC) on a process for developing the first CCL. Based on the NDWAC recommendations, the Agency developed and used screening and evaluation criteria to develop a list of chemical contaminants for CCL 1. For microbiological contaminants, the Agency followed NDWAC recommendations and sought external expertise to identify and select potential waterborne pathogens. The Agency convened a workshop of microbiologists and public health experts who developed criteria for screening and evaluation and subsequently developed an initial list of potential microbiological contaminants.

On July 18, 2003 (68 FR 42897), EPA announced its final regulatory determination for nine contaminants from CCL 1, which concluded that sufficient data and information was available to make the determination not to regulate nine contaminants (eight chemicals and one microbial).

The second CCL (CCL2) was published on February 24, 2005 (70 FR 9071) and carried forward the remaining 51 chemical and microbial contaminants listed on CCL 1. Currently, the Agency is evaluating data and research on these chemicals and microbes to make regulatory determinations as it continues work to develop the CCL 3.

C. How Is EPA Developing Future CCLs?

After publication of CCL 1, the Agency recognized the need for a more robust and transparent process for identifying and narrowing the list of potential contaminants for future CCLs and sought advice from the National Academies of Science (NAS) on how to improve the CCL process. The 2001 NAS report, *Classifying Drinking Water Contaminants for Regulatory Consideration* (NAS 2001), proposed a broader, more comprehensive screening process to assist EPA in identifying those contaminants for the CCL. The NAS recommended that EPA develop and use a process for creating future

CCLs whereby a broadly defined “universe” of potential drinking water contaminants is identified, assessed, and reduced to a preliminary CCL (PCCL) using simple screening criteria that indicate public health risk and the likelihood of occurrence in drinking water. All of the contaminants on the PCCL would then be assessed in more detail using a classification approach and tools along with expert judgment to evaluate the likelihood that specific contaminants could occur in drinking water at levels and at frequencies that pose a public health risk. The outcome of the detailed classification approach results in the draft CCL.

The contaminants initially considered for the CCL (*i.e.* CCL Universe) include naturally occurring substances, emerging waterborne pathogens, chemical agents, byproducts and degradants of chemical agents, and biological toxins. The PCCL will include contaminants that occur, or have the potential to occur, in drinking water and cause, or may cause adverse health effects.

In 2002, EPA consulted with NDWAC and received advice for implementing the 2001 NAS recommendations. NDWAC recommended that EPA move forward with the NAS recommendations using an adaptive management approach. This approach provides a framework to implement recommendations in phases and refine and adjust the CCL process as more

information and experience are attained. NDWAC provided specific recommendations on eliciting public participation and suggested that EPA seek contaminant nominations from the public for inclusion on the CCL. Implementing the nominations process provides a mechanism for early public participation in the CCL process and allows the Agency to obtain suggestions for contaminants that should be on the CCL (NDWAC 2004).

D. How Will EPA Use Data Sources To Identify Contaminants for the CCL Universe?

Based upon recommendations from NAS and NDWAC, the Agency is using the following guiding principles to construct the CCL Universe: (1) The universe should include those contaminants that have demonstrated or have potential occurrence in drinking water, and (2) the universe should include those contaminants that have demonstrated or have potential adverse health effects. These inclusionary principles apply to the selection of CCL contaminants for initial consideration in the CCL Universe.

EPA has evaluated over 280 resources (referred to as “data sources”) to determine whether they are appropriate for use in identifying potential drinking water contaminants for the CCL. The data sources vary widely in their development and use (e.g., research, surveys, and compliance monitoring); type of data (e.g., concentrations, health

effects, microbiological occurrence, and environmental fate); data format; availability; and possible applicability to the universe of contaminants for consideration.

The Agency recognizes that there are significant differences in the methods and information used to characterize chemical and microbiological contaminants. Chemical contaminants tend to be characterized by toxicological and occurrence data that can be modeled or estimated if measurement is not possible. These discrete characteristics are often captured in data sources.

To identify chemical contaminants, consistent with recommendations for developing the Universe, the Agency recognizes that the most appropriate data sources for use in the CCL classification process will provide information in a number of areas including concentrations, health effects, occurrence, and environmental fate. EPA has identified four factors that should be met for data sources to be considered useable. Sources are screened for relevance, completeness, redundancy (those sources with the most comprehensive sources are selected, while less comprehensive sources with the same information are rejected), and retrievability to determine use in the CCL classification process. Table 1 provides a list of the data sources that EPA will use in compiling the Chemical CCL Universe.

TABLE 1.—INITIAL CLASSIFICATION OF CHEMICAL DATA SOURCES

Data source name	Organizations
ATSDR CERCLA Priority List	Agency for Toxic Substances and Disease Registry.
ATSDR Minimal Risk Levels (MRLs)	Agency for Toxic Substances and Disease Registry.
Chemical Toxicity Database—Ministry of Health and Welfare, Japan	Ministry of Health and Welfare, Japan.
Chemical Update System/Inventory Update Rule (CUS/IUR)	EPA.
Cumulative Estimated Daily Intake/Acceptable Daily Intake (CEDI/ADI) Database	U.S. Food and Drug Administration (FDA).
Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States.	EPA.
Distributed Structure Searchable Toxicity Public Database Network (DSSTox)	EPA.
Everything Added to Food in the United States (EAFUS) Database	FDA.
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) List	EPA.
Generally Regarded As Safe (GRAS) Substance List	FDA.
Guidelines for Canadian Drinking Water Quality (CADW): Summary of Guidelines	Health Canada.
World Health Organization (WHO) Guidelines for Drinking Water Quality: Summary Tables	WHO.
Health Advisories (HA) Summary Tables	EPA.
High Production Volume (HPV) Chemical List	EPA.
Hazardous Substances Data Bank (HSDB)	National Library of Medicine.
Indirect Additives Database	FDA.
International Agency for Research on Cancer (IARC) Monographs	International Agency for Research on Cancer.
International Toxicity Estimates for Risk (ITER) Database	Toxicology Excellence for Risk Assessment (TERA).
Integrated Risk Information System (IRIS)	EPA.
Joint Meeting On Pesticide Residues (JMPPR)—2001. Inventory of Pesticide Evaluations	World Health Organization, Food and Agriculture Organization
National Drinking Water Contaminant Occurrence Database (NCOD)—Round 1 & 2	EPA.
National Drinking Water Contaminant Occurrence Database (NCOD)—Unregulated Contaminant Monitoring Rule (UCMR).	EPA.

TABLE 1.—INITIAL CLASSIFICATION OF CHEMICAL DATA SOURCES—Continued

Data source name	Organizations
National Inorganics and Radionuclides Survey (NIRS)	EPA.
National Pesticide Use Database	National Center for Food and Agricultural Policy.
National Reconnaissance of Emerging Contaminants (NREC)—USGS Toxic Substances Hydrology Program.	U.S. Geological Survey (USGS).
National Toxicology Program (NTP) Studies	National Cancer Institute.
National Water Quality Assessment (NAWQA)	USGS.
OSHA 1988 Permissible Exposure Limits (PELs)	National Institute for Occupational Safety and Health (NIOSH).
Pesticide Data Program	USDA.
Pesticides Pilot Monitoring Program	USGS/EPA.
Risk Assessment Information System (RAIS)—Department of Energy—Chemical Factors	U.S. Department of Energy.
Risk Assessment Information System (RAIS)—Health Effects Data	Department of Energy.
State of California EPA Chemicals Known to the State to Cause Cancer or Reproductive Toxicity.	State of California.
Storage and Retrieval (STORET)	EPA.
Substance Registry System (SRS)	EPA.
Syracuse Research Corporation (SRC)—BIODEG	Syracuse Research Corporation.
The Toxics Release Inventory (TRI)	EPA.
Toxic Substances Control Act (TSCA) List	EPA.
Toxicity Criteria Database—California Office of Environmental Health Hazard Assessment (OEHHA).	California Office of Environmental Health Hazard Assessment.
University of Maryland—Partial List of Acute Toxins/Partial List of Teratogens	University of Maryland.

For microbes, the adverse health effects from exposure are characterized by clinical or epidemiological data and there are few analytical methods to estimate or model the occurrence of microbes. Limited sources of tabular data for microbes may require evaluation of primary literature, technical reports, monographs and reference books to identify the universe of microbes for consideration. The Agency is using human pathogens as the starting point for identifying microorganisms considered for inclusion in the CCL Universe. The primary source of information on human pathogens is *Risk Factors for Human Disease Emergence* (Taylor *et al.* 2001), which provides a list of 1,415 human pathogens. In addition to the Taylor *et al.* study, the Agency will use the nominations process to ensure that the CCL universe captures emerging pathogens.

E. Why Is EPA Soliciting Contaminant Nominations?

EPA is requesting contaminant nominations from the public to ensure that contaminants that may not be identified for consideration as part of the recommended CCL process are considered. The Agency is making significant progress in developing a contaminant classification approach and continues to implement the NAS and NDWAC recommendations.

While NAS and NDWAC recommended a data driven step-wise approach to classifying contaminants, these experts also recognized the importance of providing an additional

pathway for the public to identify new and emerging contaminants that may not be identified in an evaluation of the data sources. A public nominations process allows the Agency to consider new and emerging contaminants that might not otherwise be considered because new information has not been widely reported or recorded.

Following the recommendations of NAS and NDWAC, the Agency has compiled a universe of contaminants and will add nominated contaminants from the public to the CCL Universe. The nominees will be considered as EPA evaluates NAS and NDWAC recommendations to screen the CCL universe and develops criteria to classify contaminants for the draft CCL.

III. EPA CCL Nominations Process

This contaminant nominations process is the first opportunity to make nominations to the new CCL (CCL 3). The Agency will also accept nominations during the notice and comment period following EPA's publication of the draft CCL 3.

A. How can Stakeholders, Agencies, Industry, and the Public Nominate Contaminants for the CCL?

EPA's preferred method for submission of contaminant nominations is through the EPA CCL 3 Nomination Web site. Interested parties can nominate chemicals, microbes, or other materials for consideration on the new CCL by sending information electronically, or in hard copy to EPA. Do not submit confidential business information (CBI) through e-mail. If you

wish to submit CBI, first contact EPA (see **ADDRESSES** section) for instructions on how to submit CBI. When submitting a nomination, it is preferred that the nominators include a name, affiliation, phone number, mailing address, and e-mail address; however, this information is not required and nominations can be submitted anonymously. The nominator should also address the following questions for each contaminant nominated to the CCL:

1. What is the contaminant's name, CAS number, and/or common synonym (if applicable)?

2. What factors make this contaminant a priority for the CCL 3 process (e.g., widespread occurrence; anticipated toxicity to humans; potentially harmful effects to susceptible populations (e.g., children, elderly and immunocompromised); potentially contaminated source water (surface or ground water), and/or finished water; released to air, land, and/or water; contaminants manufactured in large quantities with a potential to occur in source waters)?

3. What are the significant health effects and occurrence data available, which you believe supports the CCL requirement(s) that a contaminant may have an adverse effect on the health of persons and is known or anticipated to occur in public water systems? Please provide complete citations, including author(s), title, journal and date. Contact information for the primary investigator would also be helpful.

B. How Do I Submit Nominations Through EPA's Nominations Web Site?

The Web site is designed to provide key information to the Agency, as described in Section III. A of this notice, for each contaminant nominated to the CCL process.

The Web address to nominate a contaminant can be found at <http://www.epa.gov/safewater/ccl/ccl3.html>.

C. How do I Submit Nominations in Hard Copy?

You may submit nominations by mail. To allow full Agency consideration of your nomination, please ensure that your nominations are received or postmarked by midnight December 15, 2006. The addresses for submittal of nominations by mail are listed in the **ADDRESSES** section of this document.

D. What Will Happen to My Nominations After I Submit Them?

The Agency will include nominated contaminants into the CCL Universe. EPA will evaluate the information available for the nominated contaminants to determine the

appropriateness of inclusion on the PCCL and finally the CCL. While EPA does not intend to respond to the nominations directly or individually, the Agency will fully explain nominated contaminants for the CCL3.

IV. References

Copies of these documents are found at <http://www.regulations.gov>, Docket ID No. EPA-OW-2005-0039.

NAS 2001. National Academy of Sciences, National Research Council. 2001. Classifying Drinking Water Contaminants for Regulatory Consideration. National Academy Press. Washington, DC. Available at <http://books.nap.edu/books/0309074088/html/index.html> NDWAC 2004. National Drinking Water Advisory Council. National Drinking Water Advisory Council Report on the CCL Classification Process to the U.S. Environmental Protection Agency, May 18, 2004. Available at http://www.epa.gov/safewater/ndwac/pdfs/report_ccl_ndwac_07-06-04.pdf.

Taylor, Latham, and Woolhouse. 2001. Risk factors for human disease emergence (Appendix A). Philosophical Transactions of the Royal Society of London Biology: 256:983-98.

Dated: October 6, 2006.

Benjamin H. Grumbles,
Assistant Administrator, Office of Water.
[FR Doc. E6-17099 Filed 10-13-06; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Deletion of Agenda Items; From October 12, 2006, Open Meeting and FCC to Hold an Additional Open Meeting, Friday, October 13, 2006, at 11 a.m.

October 11, 2006.

The following items have been deleted from the list of Agenda items scheduled for consideration at the Thursday, October 12, 2006, open meeting and previously listed in the Commission's Notice of Thursday, October 5, 2006. These items will be considered at an additional open meeting scheduled for Friday, October 13, 2006, at 11 a.m. in the Commission Meeting Room, TW-C305, at 445 12th Street, SW., Washington, DC.

Item no.	Bureau	Subject
4	Wireline Competition	<i>Title:</i> AT&T Inc. and BellSouth Corporation Application for Transfer of Control (WC Docket No. 06-74). <i>Summary:</i> The Commission will consider a Memorandum Opinion and Order regarding the transfer of control application of AT&T and BellSouth.
5	Wireline Competition	<i>Title:</i> Broadband Industry Practices. <i>Summary:</i> The Commission will consider a Notice of Inquiry regarding broadband industry practices.

The prompt and orderly conduct of Commission business permits less than 7-days notice be given.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 06-8726 Filed 10-12-06; 12:05 pm]
BILLING CODE 6712-01-P

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Notice of Updated System of Records

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is providing notice of a revision to the record system Personnel Security Files (GSA/HRO-37). The system provides control over personnel security. The revisions ensure that the system of records meet the requirements of Homeland Security

Presidential Directive 12 (HSPD-12) and that individuals be fully informed about collection of their personal information.

EFFECTIVE DATE: The system of records will become effective without further notice on November 27, 2006 unless comments received on or before that date result in a contrary determination.

FOR FURTHER INFORMATION: Call or e-mail the GSA Privacy Act Officer: telephone 202-501-1452; e-mail gsa.privacyact@gsa.gov.

ADDRESSES: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION: To comply with new requirements of Homeland Security Presidential Directive 12 (HSPD-12) GSA updated its personnel security system. This notice explains the new categories of records in the system and the authorities for maintaining the system.

Dated: September 21, 2006.

Cheryl Paige,
Acting Director, Office of Information Management.

GSA/HRO-37

SYSTEM NAME:

Personnel Security files.

SECURITY CLASSIFICATION:

Some records in the system are classified under Executive Order 12958 as amended.

SYSTEM LOCATION:

Personnel security files are maintained with other appropriate records in the Personnel Security Requirements Division (CPR), GSA Building, 1800 F Street, NW., Washington, DC 20405.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants for employment, former employees of GSA and of commissions, committees, small agencies serviced by GSA, contractors,

students, interns, volunteers, individuals authorized to perform or use services provided in GSA facilities (e.g. Credit Union or Fitness Center) and individuals formerly in any of these positions that require regular, ongoing access to Federal facilities, information technology systems or information classified in the interest of national security. Included are historical researchers, experts or consultants, and employees of contractors performing services for GSA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files contain information such as name, former names, date and place of birth, home address, phone numbers, height, weight, hair color, eye color, sex, passport information, military information, civil court information, employment history, residential history, Social Security Number, occupation, experience, and investigative material, education and degrees earned, names of associates and references and their contact information, citizenship, names of relatives, citizenship of relatives, names of relatives who work for the Federal government, criminal history, mental health history, drug use, financial information, fingerprints, summary report of investigation, results of suitability decisions, level of security clearance, date of issuance of security clearance, requests for appeals, witness statements, investigator's notes, tax return information, credit reports, security violations, circumstances of violation, and agency action taken.

FORMS:

SF-85, SF-85P, SF-86, SF-87, FCRA, OF306, FD258.

AUTHORITY FOR MAINTAINING THE SYSTEM:

Depending upon the type of investigation, GSA is authorized to ask for this information under Executive Orders 10450 as amended, 10865 as amended, 12968 as amended, and 12958 as amended; sections 3301 and 9101 of title 5, U.S. Code; sections 2165 and 2201 of title 42, U.S. Code; parts 5, 732, and 736 of title 5, Code of Federal Regulations; and Homeland Security Presidential Directive 12.

PURPOSE:

To assemble in one system information pertaining to issuing security clearances and public trust certifications, suitability decisions, fitness for service of applicants for federal employment and contract positions, and administrative actions. Information security files also are used for recommending administrative action

against employees found to be violating GSA classified national security information regulations.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING THE TYPES OF USERS AND THE PURPOSES OF SUCH USES:

a. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.
 b. To the Department of Justice when:
 (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice 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, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.
 c. To authorized officials engaged in investigating or settling a grievance, complaint, or appeal filed by an individual who is the subject of the record.

d. Except as noted on Forms SF-85, 85-P, and 86, when a records on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local or tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

e. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the letting of a contract; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

f. To agency contractors or volunteers who have been engaged to assist the agency in the performance of a contract service, cooperative agreement, or other activity related to this system of records and who need to have access to the

records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

g. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), or the Government Accountability Office (GAO) when the information is required for program evaluation purposes.

h. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.

i. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is reluctant.

j. To the National Archives and Records Administration (NARA) for records management purposes.

k. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders, or directives.

l. To the Office of Management and Budget when necessary to the review of private relief legislation pursuant to OMB Circular No. A-19.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronically in secure locations. Records are maintained in the system of records Comprehensive Human Resources Integrated System (GSA/PPFM-8) in the personnel security module and associated equipment.

RETRIEVABILITY:

Records are retrieved by name and Social Security Number.

SAFEGUARDS:

Personnel security file records are stored in a secured office in cabinets with access limited to authorized employees. A password system protects access to computer records. Access to the records is limited to those employees who have a need for them in the performance of their official duties.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with General Records Schedule 18, item 22, approved by the National Archives and Records Administration (NARA). Records are destroyed by burning, pulping, or shredding, as scheduled in the HB GSA Records Maintenance and Disposition System (OAD P 1820.2A).

SYSTEM MANAGER AND ADDRESS:

The official responsible for personnel security files in the system is the Director, Personnel Security Requirements Division (CPR), 1800 F Street, NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include full name (maiden name where appropriate), address, and date and place of birth. General inquiries may be made by telephone.

PROCEDURES FOR CONTESTING RECORDS:

GSA rules for accessing records, contesting their content, and appealing initial decisions appear in 41 CFR part 105-64.

RECORD SOURCES:

Individuals, employees, informants, law enforcement agencies, other Government agencies, employees' references, co-workers, neighbors, educational institutions, and intelligence sources. Security violation information is obtained from a variety of sources, such as security guard's reports, security inspections, witnesses, supervisor's reports, and audit reports.

FILES EXEMPTED FROM PARTS OF THE ACT:

Under 5 U.S.C. 552a(k)(5), the personnel security case files in the system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the act. Information will be withheld to the extent it identifies witnesses promised confidentiality as a condition of providing information during the course of the background investigation.

[FR Doc. E6-17070 Filed 10-13-06; 8:45 am]

BILLING CODE 6820-34-P

GENERAL SERVICES ADMINISTRATION**Privacy Act of 1974; Notice of a New System of Records**

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is providing notice of a new record system, GSA/PPFM-11 (Pegasys). Pegasys is a commercial-off-the-shelf based financial management system.

Effective Date: The system of records will become effective without further notice on November 27, 2006 unless comments received on or before that date result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Call or e-mail the GSA Privacy Act Officer: telephone 202-501-1452; e-mail gsa.privacyact@gsa.gov.

ADDRESSES: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION: Pegasys is part of a shared-services financial operation providing a commercial-off-the-shelf financial system (in a private-vendor hosted environment), financial transaction processing, and financial analysis for its main business lines of Federal supplies and technology, public buildings, and general management and administration offices. GSA also utilizes this shared-service operation to cross service multiple external client agencies. The system information will be accessed and used by GSA employees, training centers, and outside agencies.

Dated: September 28, 2006.

Cheryl Paige,
Acting Director, Office of Information Management.

GSA/PPFM-11**SYSTEM NAME:**

Pegasys.

SYSTEM LOCATION:

Pegasys records and files are maintained in the Phoenix Data Center (PDC), with records also stored in the Washington, DC Central Office, Ft. Worth regional office, and Kansas City regional office.

Individuals covered by the system: Individuals covered by Pegasys include GSA vendors and Federal employees.

RECORDS IN THE SYSTEM:

Pegasys contains records and files pertaining to financial information;

therefore, these files and records contain the following privacy data:

- Social Security Number (SSN)
- Employee address
- Banking information
- Credit Card number

AUTHORITY FOR MAINTAINING THE SYSTEM:

The Chief Financial Officers (CFO) Act of 1990 (Pub. L. 101-576) as amended.

PURPOSE:

Pegasys is the GSA core financial management system of records to make payments and record accounting transactions. This includes funds management (budget execution and purchasing), credit cards, accounts payable, disbursements, standard general ledger, and reporting. It is part of a shared-services financial operation providing a commercial-off-the-shelf (COTS) financial system (in a private-vendor hosted environment), financial transaction processing, and financial analysis for its main business lines of Federal supplies and technology, public buildings, and general management and administration offices. GSA also utilizes this shared-service operation to cross service multiple external client agencies.

ROUTINE USES OF THE SYSTEM RECORDS, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSE FOR USING THE SYSTEM:

System information accessed by Pegasys may be used by designated finance center employees and their supervisors, along with designated analysts and managers. System information also may be used:

- a. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.
- b. To conduct investigations, by authorized officials, that are investigating or settling a grievance, complaint, or appeal filed by an individual who is the subject of the record.

c. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the letting of a contract; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

d. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), or the Government Accountability Office (GAO) when the information is required for program evaluation purposes.

e. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

f. To the National Archives and Records Administration (NARA) for records management purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF SYSTEM RECORDS:

STORAGE:

All records and files in Pegasys are stored electronically in a password-protected database format.

RETRIEVAL:

Information on individuals contained in Pegasys records and files are retrievable by name or vendor number.

SAFEGUARDS:

Pegasys records and files are safeguarded in accordance with the requirements of the Privacy Act. Access is limited to authorized individuals with passwords, and the database is maintained behind a certified firewall. Information on individuals is released only to authorized persons on a need-to-know basis and in accordance with the provisions of routine use. This system undergoes frequent testing and is certified and accredited for operation. Periodic Privacy Act Impact Assessments are performed as well to ensure the adequacy of security controls to protect personally identifiable information.

RETENTION AND DISPOSAL:

Pegasys records and files are retained and disposed of according to GSA records maintenance and disposition schedules and the requirements of the National Archives and Records Administration (NARA).

SYSTEM MANAGER AND ADDRESS:

Director, Financial Systems Development Division (BDD), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if the system contains information about them should contact the Pegasys system manager.

RECORD ACCESS PROCEDURE:

Requests for access may be directed to the Pegasys system manager.

RECORD CONTESTING PROCEDURE:

GSA rules for accessing records, for contesting the contents, and appealing initial decisions are in 41 CFR part 105-64, published in the **Federal Register**.

RECORD SOURCES:

The sources for information in Pegasys are the individuals for whom the records are maintained, the

supervisors of those individuals, and existing agency systems.

[FR Doc. E6-17069 Filed 10-13-06; 8:45 am]

BILLING CODE 6820-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Request for Measures of Consumers' Assessment of Cultural Competency

AGENCY: Agency for Healthcare Research and Quality (AHRQ), DHHS.

ACTION: Notice of request for measures.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is soliciting the submission of instruments or items that measure patient perspectives on the cultural awareness of the healthcare professionals providing care to those patients. This initiative is in response to the need to develop a new CAHPS® cultural competency survey. AHRQ is interested in incorporating this survey into an integrated set of carefully tested, standardized survey questionnaires and accompanying reports. The addition of the CAHPS® cultural competency component to the set is intended to empower consumers with quality of care information while also encouraging healthcare professionals to provide culturally competent care. The survey will be designed to assess the quality of care and services provided by healthcare professional in the context of cultural competency.

Based on prior work, there are several functional areas that the planned instrument could assess such as: (1) Patient-provider communication (*e.g.*, providers give clear explanations, patients feel that they get all the information they need.), (2) respect for patient preferences/shared decision-making (*e.g.*, providers discuss pros and cons of treatment options, providers understand and takes into account patient's environment, family members are appropriately included in decisions), (3) experiences leading to trust or distrust (*e.g.*, providers treat patients in a culturally sensitive or insensitive manner that led to trust or distrust), (4) experiences of discrimination (*e.g.*, providers or staff treat patients with disrespect because of a patients' racial/ethnic backgrounds, insurance type/status, lack of proficiency in English), (5) language access (*e.g.*, availability of interpreter services and translated materials), and (6) alternative treatment (*e.g.*, providers

are open to discussion about traditional healers and remedies).

DATES: Please submit instruments or individual items and supporting information on or before November 15, 2006. AHRQ will not respond individually to submitters, but will consider all submitted instruments and publicly report the results of the review of the submissions in aggregate.

ADDRESSES: Submissions should include a brief cover letter, copy of the instrument or items for consideration and supporting information as specified under the Submission Criteria below. Submissions may be in the form of a letter or e-mail, preferably with an electronic file as an e-mail attachment. Responses to this request should be submitted to: Anna Caponiti, Center for Quality Improvement and Patient Safety, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, MD 20850, Phone: (301) 427-1402, Fax: (301) 427-1341, E-mail: anna.caponiti@ahrq.hhs.gov.

To facilitate handling of submissions, please include full information about the instrument developer or contact: (a) Name, (b) title, (c) organization, (d) mailing address, (e) telephone number, (f) fax number, and (g) e-mail address. Also please submit a copy of the instrument or items for consideration along with evidence that they meet the criteria below. It would be appreciated if each citation of a peer-reviewed journal article pertaining to the instrument includes the title of the article, author(s), publication year, journal name, volume, issue, and page numbers where article appears, but all of these details are not required. Submitters must also provide a statement of willingness to grant to AHRQ the right to use and authorize others to use submitted measures and their documentation as part of a CCAHPS®-trademarked instrument. This CAHPS® instrument for patients' perspectives on cultural competency of healthcare professionals provision of care will be made publicly available, free of charge. Electronic submissions are encouraged.

FOR FURTHER INFORMATION CONTACT: Anna Caponiti, at the address above.

SUPPLEMENTARY INFORMATION:

Background Information

The CAHPS® program was initiated in 1995 to develop a survey and report on consumers' perspectives on the quality of their health plans. Since that time, the CAHPS® program, in partnership with the Centers for Medicare and Medicaid Services (CMS) and others, has expanded its scope and developed

consumer surveys and reports regarding consumer perspectives on individual clinicians, group practices, in-center hemodialysis services, nursing homes and hospitals. AHRQ determined that the CAHPS® team should develop a survey to obtain consumer perspectives on cultural awareness of healthcare professionals.

The vision of the Agency for Healthcare Research and Quality is to foster health care research that helps the American health care system provide access to high-quality, cost-effective services; be accountable and responsive to consumers and purchasers; and improve health status and quality of life. The CAHPS® program was developed as a result of AHRQ's vision. One of the components missing from the current measurement set is an assessment of patients' perspective on cultural awareness of healthcare professionals.

Submission Criteria

Instruments submitted should focus on patient perspectives on the quality of care and services provided by healthcare professionals in the context of cultural awareness demonstrated by those healthcare professionals.

AHRQ is interested in measures that: (a) Capture patients' experiences of quality of received health care in the context of healthcare professionals' cultural awareness and (b) demonstrate a high degree of reliability and validity. Accordingly, each submission should include, in addition to the name of the pertinent instrument, domains included, and the language(s) the instrument is available in, the following information: Evidence of cultural/cross group comparability, if any; instrument reliability (internal consistency, test-retest, *etc.*); validity (content, construct, criterion-related); response rates; methods and results of cognitive testing and field-testing as well as descriptions of sampling strategies (including payer type) and data collection protocols, including such elements as mode of administration, use of advance letters, timing and frequencies of contacts. Evidence addressing these criteria should be demonstrated through submission of peer-reviewed journal article(s) or through the best evidence available at the time of submission.

In addition, a list of where the instrument has been fielded should also be included in the submission. Submission of copies of existing report formats developed to disclose findings to consumers and providers is desirable, but not required. Additionally, information about existing database(s) for the instrument(s) submitted is helpful, but not required for submission.

Submitters' willingness to grant to AHRQ the right to use and authorize others to use their instrument or item and accompanying explanatory material means that the CAHPS® trademark will be applied to a new instrument which will combine the best features of the submissions as well as any ideas that may develop from reviewing them. It also ensures free access to this instrument and the instrument's supportive/administrative information. AHRQ, in collaboration with CAHPS grantees, will evaluate all submitted instruments or items. As the CAHPS instrument is constructed, one or more items may be selected for use, either in whole or in part, or modified, prior to testing them. AHRQ will assume responsibility for the final instruments as well as any future modifications.

The final instrument will bear the CAHPS® trademark and it will be made available without charge for use by all interested parties. Submitters will have relinquished ownership of any items that appear in the final instrument. However, item ownership will be protected during testing of the survey. As a matter of quality control, there will be warnings that the CAHPS® trademark or identification may not be used if any changes are made to the instrument or final measure set without review and permission of the Agency.

Dated: October 5, 2006.

Carolyn M. Clancy,

Director.

[FR Doc. 06-8674 Filed 10-13-06; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Request for Measures of Consumers' Health Information Delivery Experiences

AGENCY: Agency for Healthcare Research and Quality (AHRQ), DHHS.

ACTION: Notice of request for measures.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is soliciting the submission of instruments or items that measure how well health plans, hospitals, clinicians, and group practices address health literacy issues. Based on a literature review and an assessment of currently available questionnaires, AHRQ identified the need to develop a new health literacy module of the CAHPS® survey. The intent of the planned module is to examine patients' perspectives on how

well health information is communicated to them by healthcare professionals in greater detail than before. The intent of the new module is to provide information to health plans, hospitals, clinicians, group practices, and other interested parties regarding quality of health information delivered to patients.

Based on prior work, there are several functional areas that the planned instrument could address. These include the clarity and usability of provided health information related to: (a) Preventive services (e.g., risk and benefits of the service, explanation of screening results); (b) health problems/concerns (e.g., information on how to stay healthy or prevent illness); (c) treatment choices, instructions, or goals (e.g., pros and cons of each treatment option); and (d) medications (e.g., reason for taking medications, instructions on how to take medications, possible side effects). AHRQ is especially interested in measures of patients' assessments of written communications (e.g., instructions for self-care, health promotion materials), and the use and effectiveness of educational techniques to ensure patient's comprehension of health information (e.g., allowing time for questions, repeating information, using visual aids, employing health educators to review treatment plans and follow-up). AHRQ is also interested in measures that assess the quality of services supporting health information delivery such as language assistance (e.g., availability and timeliness of interpreter services, availability of patient education materials in other language), and administrative assistance (e.g., assistance in completing medical paperwork).

DATES: Please submit instruments or individual items and supporting information on or before November 15, 2006. AHRQ will not respond individually to submitters, but will consider all submitted instruments and publicly report the results of the review of the submissions in aggregate.

ADDRESSES: Submissions should include a brief cover letter, a copy of the instrument or items for consideration and supporting information as specified under the Submission Criteria below. Submissions may be in the form of a letter or e-mail, preferably with an electronic file as an e-mail attachment. Responses of this request should be submitted to: Anna Caponiti, Center for Quality Improvement and Patient Safety, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, MD 20850, phone: (301) 427-

1402, fax: (301) 427-1341, e-mail: anna.caponiti@ahrq.hhs.gov.

To facilitate handling of submissions, please include full information about the instrument developer or contact; (a) Name, (b) title, (c) organization, (d) mailing address, (e) telephone number, (f) fax number, and (g) e-mail address. Also, please submit a copy of the instrument or items for consideration as well as evidence that they meet the criteria below. It would be appreciated if each citation of a peer-reviewed journal article pertaining to the instrument include the title of the article, author(s), publication year, journal name, volume, issue, and page numbers where article appears, but all of these details are not required. Submitters must also provide a statement of willingness to grant to AHRQ the right to use and authorize others to use submitted measures and their documentation as part of a CAHPS®-trademarked instrument. This CAHPS® instrument for patients' perspectives on the quality of health information will be made publicly available, free of charge. Electronic submissions are encouraged.

FOR FURTHER INFORMATION CONTACT: Anna Caponiti, at the address above.

SUPPLEMENTARY INFORMATION:

Background Information

The CAHPS® program was initiated in 1995 to develop a survey and report on consumers' perspectives on the quality of their health plans. Since that time, the CAHPS® program, in partnership with the Centers for Medicare and Medicaid Services (CMS) and others, has expanded its scope and developed consumer surveys and reports regarding consumer perspectives on individual clinicians, group practices, in-center hemodialysis services, nursing homes and hospitals. AHRQ determined that the CAHPS® teams should develop a survey to obtain the consumers' perspective on the quality of health information.

The vision of the Agency for Healthcare Research and Quality is to foster health care research that helps the American health care system provide access to high-quality, cost-effective services; be accountable and responsive to consumers and purchasers; and improve health status and quality of life. The CAHPS® program was developed as a result of AHRQ's vision. One of the components not examined in the current measurement set is an assessment of patients' perspectives on how well health plans, hospitals, clinicians, and group practices address health literacy issues.

Submission Criteria

Instruments submitted should focus on patient perspectives on quality of health information provided by plans, hospitals, clinicians, and/or group practices.

AHRQ is interested in measures that: (a) Assess patients' and their caregivers' experiences receiving health information and (b) demonstrate a high degree of reliability and validity. Accordingly, each submission should include, in addition to the name of the pertinent instrument, domains included, and the language(s) the instrument is available in, the following information: Evidence of cultural/cross group comparability, if any; instrument reliability (internal consistency, test-retest, etc.); validity (content, construct, criterion-related); response rates; methods and results of cognitive testing and field-testing and description of sampling strategies (including payer type); as well as data collection protocols, including such elements as mode of administration, use of advance letters, timing and frequencies of contacts. Evidence addressing these criteria should be demonstrated through submission of peer-reviewed journal article(s) or through the best evidence available at the time of submission.

In addition, a list of where the instrument has been fielded should also be included in the submission. Submission of copies of existing report formats developed to disclose findings to consumers and providers is desirable, but not required. Additionally, information about existing database(s) for the instrument(s) submitted is helpful, but not required for submission.

Submitters' willingness to grant to AHRQ the right to use and authorize others to use their instrument or item and accompanying explanatory material means that the CAHPS® trademark will be applied to a new instrument which will combine the best features of the submissions as well as any ideas that may develop from reviewing them, and also free access to this instrument, and free access to the instrument's supportive/administrative information will be ensured. AHRQ, in collaboration with CAHPS grantees, will evaluate all submitted instruments or items. As they construct the CAHPS instrument, they may select one or more either in whole or in part or modify the items prior to testing them. AHRQ will assume responsibility for the final instruments as well as any future modifications.

The final instruments will bear the CAHPS® trademark and it will be made available without charge for use by all interested parties. Submitters will have

relinquished ownership of any items that appear in the final instrument. However, item ownership will be protected during testing of the survey. As a matter of quality control, there will be warnings that the CAHPS® trademark or identification may not be used if any changes are made to the instrument or final measure set without review and permission of the agency.

Dated: October 5, 2006.

Carolyn M. Clancy,
Director.

[FR Doc. 06-8673 Filed 10-13-06; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a New System of Records

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of a New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system titled, "Competitive Bidding for Clinical Laboratory Services (CBCLS), System No. 09-70-0589." The demonstration project is mandated by section 302(b) of the Medicare Prescription Drug Improvement, and Modernization Act of 2003 (MMA) (Public Law (Pub. L.) 108-173), which was enacted into law on December 8, 2003, and amended Title XVIII of the Social Security Act (the Act). The CBCLS demonstration and evaluation seek to determine whether competitive bidding can be used to provide quality laboratory services at prices below current Medicare reimbursement rates. Independent, hospital, and physician office laboratories providing non-patient Medicare Part B laboratory services will be required to participate in the demonstration.

The purpose of this system is to collect and maintain demographic and health related data on the target population of Medicare beneficiaries who reside in the demonstration area and providers and/or suppliers that are potential participants in the demonstration who provide Medicare Part B clinical laboratory services to such beneficiaries. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within

the agency or by a contractor, grantee, or consultant; (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 certain Federally-funded health benefits programs. We have provided background information about the new 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 Date: CMS filed a new 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 6, 2006. To ensure that all parties have adequate time in which to comment, the new 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, 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 time.

FOR FURTHER INFORMATION CONTACT: Linda Lebovic, Division Payment Policy Demonstrations, Medicare Demonstrations Program Group, Office of Research, Development &

Information, Mail Stop C4-17-27, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1849. She can be reached by telephone at 410-786-3402, or via e-mail at Linda.Lebovic@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: The demonstration is mandated by section 302(b) of the MMA (Pub. L. 108-173), which was enacted into law on December 8, 2003, and amended Title XVIII of the Act. The CBCLS demonstration and evaluation seek to determine whether competitive bidding can be used to provide quality laboratory services at prices below current Medicare reimbursement rates. Independent, hospital, and physician office laboratories providing Medicare Part B clinical laboratory services to non-patient beneficiaries will be required to participate.

The demonstration and its evaluation include all clinical laboratory services paid under the Clinical Laboratory Fee Schedule (except pap smears and colorectal cancer screening tests) for Medicare Part B fee-for-service beneficiaries who live in the demonstration area. The payment basis determined for each competitive acquisition area will be substituted for payment under the existing Clinical Laboratory Fee Schedule. The MMA requires laboratories to comply with the regulations under the Clinical Laboratory Improvement Amendments as mandated under section 353 of the Public Health Service Act. Beneficiary access to laboratory services and laboratory quality will be monitored throughout the demonstration.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR

The statutory authority for this system is given under the provisions of section 302(b) of the Medicare Prescription Drug Improvement, and Modernization Act of 2003 (Pub. L. 108-173).

B. Collection and Maintenance of Data in the System

This system will collect and maintain individually identifiable and other data collected on Medicare beneficiaries who reside in the demonstration area and providers and/or suppliers that are potential participants in the demonstration who provide Medicare Part B clinical laboratory services to such beneficiaries. Data will be collected from Medicare administrative and claims records, patient medical charts, and physician records. The

collected information will include, but is not limited to: Medicare claims and eligibility data, name, address, telephone number, health insurance claims number, race/ethnicity, gender, date of birth, provider name, unique provider identification number, medical record number, as well as clinical, demographic, background information relating to Medicare issues, and research information needed to evaluate the program and develop research reports on findings.

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 CBCLS 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 CBCLS.

CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the 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 maintain demographic and health related data on the target population of Medicare beneficiaries who are potential participants in the CBCLS program. We will also collect certain identifying information on Medicare providers who provide services to such beneficiaries.

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 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, 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 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.

Other Federal or state agencies, in their administration of a Federal health program, may require CBCLS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

3. To 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 CBCLS data will provide for research or support of evaluation projects and a broader, longitudinal, national perspective of the status of Medicare 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 beneficiaries and the policies that govern their care.

4. To 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 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, grantee, cooperative agreement or consultant relationship 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 or makes grants or cooperative agreements when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, grantee, consultant or other legal agent whatever information is necessary for the agent to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the agent from using or disclosing the information for any purpose other than that described in the contract and requiring the agent to return or destroy all information.

6. To 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 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 CBCLS 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 an individual 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 Prescription Drug Improvement, and 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 Proposed System of Records on Individual Rights

CMS proposes to establish 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 this 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. 09-70-0589

SYSTEM NAME

"Competitive Bidding for Clinical Laboratory Services (CBCLS)," HHS/CMS/ORDI.

SECURITY CLASSIFICATION

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850 and at various co-locations of CMS agents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

This system will collect and maintain individually identifiable and other data collected on Medicare beneficiaries who reside in the demonstration area and providers and/or suppliers that are potential participants in the demonstration who provide Medicare Part B clinical laboratory services to such beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

The collected information will include, but is not limited to: Medicare claims and eligibility data, name, address, telephone number, health insurance claims number (HICN), race/ethnicity, gender, date of birth, provider name, unique provider identification number, medical record number, as well as clinical, demographic, background information relating to Medicare issues, and research information needed to evaluate the program and develop research reports on findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory authority for this system is given under the provisions of section 302(b) of the Medicare Prescription Drug Improvement, and Modernization Act of 2003 (Pub. L. 108-173).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect and maintain demographic and

health related data on the target population of Medicare beneficiaries who reside in the demonstration area and providers and/or suppliers that are potential participants in the demonstration who provide Medicare Part B clinical laboratory services to such beneficiaries. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, grantee, or consultant; (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 certain 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 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 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 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 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 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 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 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 an individual 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 electronic media.

RETRIEVABILITY:

The collected data are retrieved by an individual identifier; *e.g.*, beneficiary name or HICN.

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 AND ADDRESS:

Division Payment Policy Demonstrations, Medicare Demonstrations Program Group, Office of Research, Development & Information, Mail Stop C4-17-27, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1849.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, employee identification number, tax identification number, national provider number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), HICN, and/or 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 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).

RECORDS SOURCE CATEGORIES:

Data will be collected from Medicare administrative and claims records (Common Working File, Carrier Medicare Claims Record, Intermediary Medicare Claims Records), patient medical charts, and physician records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6-17052 Filed 10-13-06; 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 New System of Records

AGENCY: Department of Health and Human Services (HHS), Center for Medicare & Medicaid Services (CMS).

ACTION: Notice of a New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system titled, "Senior Risk Reduction Demonstration and Evaluation (SRRDE), System No. 09-70-0592." The program is authorized under provisions of the Social Security Act (42 U.S.C. 1395b-1(a)), which gives the Secretary the broad authority to, "develop and engage in experiments and demonstration projects." The goal of the SRRDE is to determine whether risk reduction programs that have been developed and tested in the private sector can also be tailored to and work well with Medicare beneficiaries to improve their health and reduce avoidable health care utilization. The specific aims of the demonstration and evaluation are to: (1) Determine whether a senior risk reduction service provided by Medicare will be accepted by beneficiaries, achieve high participation rates, and be viewed positively by beneficiaries; (2) reduce health risk factors, improve health behaviors, improve functioning, and prevent disability; and (3) save money for Medicare.

The purpose of this system is to collect and maintain demographic and health related data on the target population of non-institutionalized Medicare beneficiaries between the ages of 67 and 74 who are potential participants in the SRRDE program. We will also collect certain identifying information on Medicare providers who provide services to such beneficiaries. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, grantee, consultant or other legal agent; (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 certain Federally-funded health benefits programs. We have provided background information about the new 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 Date: CMS filed a new 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 6, 2006. To ensure that all parties have adequate time in which to comment, the new 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, Office of Information Services, 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 time.

FOR FURTHER INFORMATION CONTACT: Pauline Lapin, Division of Health Promotion & Disease Prevention Demonstrations, Medicare Demonstrations Program Group, Office of Research Development & Information, Mail Stop S3-06-24, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1849. She can be reached by telephone at 410-786-6883, or via e-mail at Pauline.Lapin@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: Behavioral lifestyle choices with respect to diet, physical activity, alcohol, and tobacco

use are associated with the leading causes of morbidity and mortality in the United States. Recent research suggests that well-structured risk reduction programs can achieve significant improvements in a population's risk profile. Successful programs are founded on solid behavior change theory, use tailored interventions, are personalized and sufficiently intensive, and are delivered with adequate social supports. The SRRDE program will be tailored to the needs, concerns, and learning styles of seniors. The goal is to develop personalized materials and instruments, followed by interventions tailored to the risks presented by the participants.

CMS will offer risk reduction services to non-institutionalized Medicare beneficiaries between the ages of 67 and 74. The demonstration requires random selection of beneficiaries from across the United States as well as from communities that have exemplary Information and Referral/Assistance programs for seniors. Medicare will assign approximately 15,000-17,000 randomly selected beneficiaries to each site for recruitment. Medicare's inclusion criteria for beneficiaries eligible for the demonstration and evaluation are as follows: they must be a Medicare fee-for-service beneficiary enrolled in both Parts A and B, they may be dual eligible for both Medicare and Medicaid, and Medicare must be their primary payer. Medicare's exclusion criteria for beneficiaries to participate in the demonstration and evaluation are as follows: they cannot be currently enrolled in a Medicare Health Plan; they cannot be enrolled in a hospice or End State Renal Disease (ESRD) program; cannot currently be participating in another CMS demonstration; cannot have residence in an institution for 100 days or the past 12 months; cannot have the inability to participate in self-care activities due to severe dementia or other serious mental illness; and cannot have had initial enrollment into Medicare before the age of 65.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR

The statutory authority for this system is given under section 402(a)(1)(B) and (a)(2) of the Social Security Amendments of 1967, Public Law No. 90-248, as amended, 42 United States Code § 1395b-1(a)(1)(B) and (a)(2).

B. Collection and Maintenance of Data in the System

This system will collect and maintain individually identifiable and other data collected on non-institutionalized Medicare beneficiaries between the ages of 67 and 74 who are potential participants in the SRRDE program. The collected information will include, but is not limited to: Medicare claims and eligibility data, name, address, telephone number, health insurance claims number, race/ethnicity, gender, date of birth, provider name, unique provider identification number, medical record number, as well as clinical, demographic, health/well-being, family and/or caregiver contact information, and background information relating to Medicare issues. Data will be collected from Medicare administrative and claims records, SRRDE site administrative data systems, patient medical charts, and physician records.

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 SRRDE 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 SRRDE.

CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the 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 maintain demographic and health related data on the target population of non-institutionalized Medicare beneficiaries between the ages of 67 and 74 who are potential participants in the SRRDE program.

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 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 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.

Other Federal or state agencies, in their administration of a Federal health program, may require SRRDE information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

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 SRRDE data will provide for research or support of evaluation projects and a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that researchers may have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policies that govern their 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 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, grantee, cooperative agreement or consultant relationship 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 or makes grants or cooperative agreements when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, grantee, consultant or other legal agent whatever information is necessary for the agent to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the agent from using or disclosing the information for any purpose other than that described in the contract and requiring the agent 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 SRRDE 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 Proposed System of Records on Individual Rights

CMS proposes to establish 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 this 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. 09-70-0592

SYSTEM NAME:

"Senior Risk Reduction Demonstration and Evaluation (SRRDE)," HHS/CMS/ORDI.

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 at various co-locations of CMS agents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system will collect and maintain individually identifiable and other data collected on non-institutionalized Medicare beneficiaries between the ages of 67 and 74 who are potential participants in the SRRDE program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The collected information will include, but is not limited to: Medicare claims and eligibility data, name, address, telephone number, health insurance claims number (HICN), race/ethnicity, gender, date of birth, provider name, unique provider identification number, medical record number, as well as clinical, demographic, health/well-being, family and/or caregiver contact information, and background information relating to Medicare issues. Data will be collected from Medicare administrative and claims records, SRRDE site administrative data systems,

patient medical charts, and physician records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory authority for this system is given under section 402 (a)(1)(B) and (a)(2) of the Social Security Amendments of 1967, Public Law 90–248, as amended, 42 United States Code 1395b–1(a)(1)(B) and (a)(2).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect and maintain demographic and health related data on the target population of non-institutionalized Medicare beneficiaries between the ages of 67 and 74 who are potential participants in the SRRDE program. We will also collect certain identifying information on Medicare providers who provide services to such beneficiaries. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, grantee, consultant or other legal agent; (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 certain 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 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 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 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.

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 electronic media.

RETRIEVABILITY:

The collected data are retrieved by an individual identifier; *e.g.*, beneficiary name or HICN.

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 AND ADDRESS:

Director Office of Research Development & Information, Mail Stop S3-06-24, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1849.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, employee identification number, tax identification number, national provider number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), HICN, and/or 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 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).

RECORDS SOURCE CATEGORIES:

Data will be collected from Medicare administrative and claims records, SRRDE site administrative data systems, patient medical charts, and physician records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6-17055 Filed 10-13-06; 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: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

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, "Medicare Current Beneficiary Survey (MCBS)," System No. 09-70-6002, last published at 66 *Federal Register* 15496 (March 19, 2001). 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 of the Health Care Financing Administration that maintained the system of records. The new assigned identifying number for this system should read: System No. 09-70-0519.

We propose to modify existing routine use number 2 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 be renumbered as routine use number 1.

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 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) (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 this modified system is to collect and maintain a research database for CMS and other researchers that is capable of producing data sets suitable for both longitudinal and cross-sectional analysis to be used to: (1) Produce projections for current programs and proposed program changes, (2) produce national level estimates of health care expenditures by the aged and disabled, and (3) provide a research database that can be used to provide guidance to program management and policies. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant, or a CMS 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) assist 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; and (4) 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 modified or altered routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATE** section for comment period.

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 6, 2006. To ensure that all parties have adequate time in which to comment, the new 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: 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: William Long, Social Science Research Analyst, Division of Survey Management and Data Release, Information and Methods Group, Office of Research, Development and Information, CMS, Mail Stop C3-20-11, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. He can also be reached by telephone at 410-786-7927, or via e-mail at William.Long@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: CMS has previously published SOR notice on this system at 66 *Federal Register* (FR) 15496 (March 19, 2001), and 55 FR 35957 (September 4, 1990). MCBS is an ongoing, multi-purpose survey for use by all components of CMS, by the Department, and by others concerned with Medicare policy. The core of the MCBS concept is a series of interviews of a representative sample of the Medicare population regarding: their patterns of use and cost of health services over time; their sources of coverage and payment; their assets and income; their demographic characteristics; their health and functional status; their health and work history; and their family support. The same beneficiaries will be interviewed repeatedly over several years to observe changes in health care use with changes in coverage, and to observe processes that occur over time, such as

institutionalization or spending down of assets.

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 section 1875 of the Social Security Act (42 United States Code 13951l).

B. Collection and Maintenance of Data in the System

Records in this system will be maintained on a random sample of persons enrolled for hospital insurance and/or supplemental medical benefits under the Medicare program. Records in this system will include, but are not limited to, name, social security number, health insurance claim number, age, gender, ethnicity, education, military service history, income data, marital status, medical utilization and cost data, prescription drug usage and cost data, health and functional status, health insurance coverage, medical condition status, household composition data, and medical provider names.

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 MCBS 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 MCBS. 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 maintain a research database for CMS and other researchers that is capable of producing data sets suitable for both longitudinal and cross-sectional

analysis to be used to: (1) Produce projections for current programs and proposed program changes, (2) produce national level estimates of health care expenditures by the aged and disabled, and (3) provide a research database that can be used to provide guidance to program management and policies.

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 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 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.

Other Federal or State agencies, in their administration of a Federal health program, may require MCBS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

3. To assist 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 MCBS data will provide for research or in support of evaluation projects, a broader, national perspective of the status of Medicare 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 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.

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. 09-70-0519

SYSTEM NAME:

"Medicare Current Beneficiary Survey (MCBS)," 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:

Records in this system will be maintained on a random sample of persons enrolled for hospital insurance and/or supplemental medical benefits under the Medicare program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system will include, but are not limited to, name, social security number (SSN), health insurance claim number (HICN), age, gender, ethnicity, education, military service history, income data, marital status, medical utilization and cost data, prescription drug usage and cost data, health and functional status, health insurance coverage, medical condition status, household composition data, and medical provider names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under section 1875 of the Social Security Act (42 United States Code 1395ll).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this modified system is to collect and maintain a research database for CMS and other researchers that is capable of producing data sets suitable for both longitudinal and cross-sectional analysis to be used to: (1) Produce projections for current programs and proposed program changes, (2) produce national level estimates of health care expenditures by the aged and disabled, and (3) provide a research database that can be used to provide guidance to program management and policies. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant, or a CMS 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) assist 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; and (4) 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 collection and who need to have access to the records in order to perform the activity.
2. To 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 assist 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.

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 computer diskette and magnetic storage media.

RETRIEVABILITY:

Information can be retrieved by the name and HICN of the beneficiary.

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:

Records will be maintained for 10 years after the final action of the research project is complete. 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:

Deputy Director, Office of Research, Development and Information, CMS, Mail Stop C3-20-01, 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(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:

Information contained in these records will be obtained from the Medicare enrollment records, Medicare bill records, Medicare provider records, Medicare beneficiaries and/or their representatives, and Medicare carriers and intermediaries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6-17057 Filed 10-13-06; 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: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

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, "Person-Level Medicaid Data System (PMDS)," System No. 09-70-0033, established at 49 *Federal Register* (FR) 47573 (December 5, 1984) and last modified at 65 FR 37792 (June 16, 2000). 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 Health Care Financing Administration systems of records. The new assigned identifying number for this system should read: System No. 09-70-0507.

We propose to modify existing routine use number 2 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 be renumbered 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 broaden the scope of the disclosure provisions of this system by adding a routine use to permit the release of information to other Federal and State agencies to: (1) Contribute to the accuracy of CMS' proper payment of Medicare benefits; and (2) enable such

agency to administer a Federal health benefits program, and/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.

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) (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 this modified system is to collect and maintain individually-identifiable data to study Medicaid use and expenditures in order to increase CMS' understanding of the Medicaid and Medicare programs and to improve CMS' ability to conduct program evaluation, strengthen program management, evaluate policy alternatives, conduct and evaluate demonstration projects, and advise States in the area of Medicaid financing. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or grantee; (2) assist another Federal and/or State agency; (3) support an individual or organization for research, evaluation or epidemiological projects; and (4) 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 modified or altered routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATE** section for comment period.

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 6, 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, Office of Information Services, 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: Dave Baugh, Division of State Program and Research, Research and Evaluation Group, Office of Research, Development and Information, CMS, Mail Stop C3-20-17, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. He can also be reached by telephone at 410-786-7716, or via e-mail at David.Baugh@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: Enacted under the authority of section 1902(a)(6) of the Social Security Act (the Act) (42 United States Code (U.S.C.) 1396(a)(6)), this section provides that a State plan for medical assistance must provide that the State agency will make such report, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports. To this end we have created a records system using Medicaid data which has greatly improved CMS' ability to conduct program evaluation and has strengthened program management.

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 § 1902(a)(6) of the Act (42 U.S.C. 1396(a)(6)).

B. Collection and Maintenance of Data in the System

PMDS contains information on persons enrolled in the Medicaid program under either Federal or State

provisions. Information collected includes but is not limited to data from 5 State Medicaid agencies (California, Georgia, Michigan, New York, and Tennessee) showing claims submitted for covered medical services, provider characteristics, name, address, phone number, date of birth, social security number, health insurance claim number, gender and ethnicity.

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 PMDS 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 PMDS. 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 study Medicaid use and expenditures in order to increase CMS' understanding of the Medicaid and Medicare programs and to improve CMS' ability to conduct program evaluation, strengthen program management, evaluate policy alternatives, conduct and evaluate demonstration projects, and advise States in the area of Medicaid financing.

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 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:
 - a. To contribute to the accuracy of CMS's proper payment of Medicare benefits,
 - b. To 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.

Other Federal or State agencies in their administration of a Federal health program may require PMDS 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' 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.

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 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. 09-70-0507

SYSTEM NAME:

"Person-Level Medicaid Data System (PMDS)," 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:

PMDS contains information on persons enrolled in the Medicaid program under either Federal or State provisions, as well as health care providers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected includes but is not limited to data from 5 State Medicaid agencies (California, Georgia, Michigan, New York, and Tennessee) showing claims submitted for covered medical services, provider characteristics, name, address, phone number, date of birth, social security number (SSN), health insurance claim number (HICN), unique provider identification number, gender and ethnicity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under section 1902(a)(6) of the Social Security Act (42 United States Code 1396(a)(6)).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this modified system is to collect and maintain individually-identifiable data to study Medicaid use and expenditures in order to increase CMS' understanding of the Medicaid and Medicare programs and to improve CMS' ability to conduct program evaluation, strengthen program management, evaluate policy alternatives, conduct and evaluate demonstration projects, and advise States in the area of Medicaid financing. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or grantee; (2) assist another Federal and/or State agency; (3) support an individual or organization for research, evaluation or epidemiological projects; and (4) 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:

5. 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.

6. To assist another Federal or State agency:

a. To contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. To 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.

7. 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.

8. 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.

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 magnetic tape and computer disk.

RETRIEVABILITY:

Enrollment records are retrieved by Medicaid and Medicare identification numbers. Provider records are retrieved by Medicaid and Medicare provider identification numbers. Claims records contain both enrollee and provider identification numbers.

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 of 6 years and 3 months. 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:

Deputy Director, Office of Research, Development and Information, CMS, Mail Stop C3-20-11, 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:

Medicaid and Medicare enrollment, claims, and provider records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6-17058 Filed 10-13-06; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Fund Plan for States/Territories for FY 2008-2009.

OMB No.: 0970-0114.

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for States and Territories is required from each CCDF Lead Agency in accordance with Section 658E of the Child Care and Development Block

Grant Act of 1990, as amended (Pub. L. 101-508, Pub. L. 104-193, and 42 U.S.C. 9858). The implementing regulations for the statutorily required Plan are set forth at 45 CFR 98.10 through 98.18. The Plan, submitted on the ACF-118, is required biennially, and remains in effect for two years. The Plan provides ACF and the public with a description of, and assurance about, the State's or the Territory's child care program. The ACF-118 is currently approved through June 30, 2008, making it available to States and Territories needing to submit Plan Amendments through the end of the FY 2007 Plan Period. However, in July 2007, States and Territories will be required to submit their FY 2008-2009 Plans. Consistent with the statute and regulations, ACF requests extension of the ACF-118 with minor corrections and modifications. The Tribal Plan (ACF-118A) is not affected by this notice.

Respondents: State and Territorial CCDF Lead Agencies.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF-118	56	.5	162.57	4,552

Estimated Total Annual Burden Hours: 4,552.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-Mail address: infocollection@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c)

the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 11, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06-8689 Filed 10-13-06; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Fund Quarterly Financial Report (ACF-696).

OMB No.: 0970-0163.

Description: States and Territories use this form to report expenditures for the Child Care and Development Fund (CCDF) on a quarterly basis. The form, which is also available electronically through a Web-based application, provides specific data regarding expenditures, obligations, and estimates. It provides States and Territories with a mechanism to request grant awards and certify the availability of State matching funds. Failure to collect this data could seriously compromise the ability of the Administration for Children and Families (ACF) to monitor expenditures. This form may also be used to prepare ACF budget submissions to Congress. Office of Management and Budget approval for the current form expires on March 31, 2007.

Respondents: States and Territories that are CCDF grantees.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF-696	56	4	5	1,120

Estimated Total Annual Burden Hours: 1,120.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: infocollection@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 11, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06-8690 Filed 10-13-06; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: OCSE-75 Tribal Child Support Enforcement Program Annual Data Report.

OMB No.: New Collection.

Description: The data collected by form OCSE-75 are used to prepare the OCSE preliminary and annual data reports. In addition, Tribes administering CSE programs under Title IV-D of the Social Security Act are required to report program status and accomplishments and submit the OCSE-75 report annually.

Respondents: Tribal Child Support Enforcement Organizations or the Department/Agency/Bureau responsible for Child Support Enforcement in each tribe.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE-75	9	1	2.5	22.5

Estimated Total Annual Burden Hours: 22.5.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: infocollection@acf.hhs.gov.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW.,

Washington, DC 20503, Attn: Desk Officer for ACF; E-mail address: Katherine_T.Astrich@omb.eop.gov.

Dated: October 11, 2006.

Robert Sargis,

Reports Clearance Office.

[FR Doc. 06-8691 Filed 10-13-06; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice for October 2006 Advisory Committee Meeting

AGENCY: Office of Planning, Research and Evaluation, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of meeting; Advisory Committee on Head Start Accountability and Educational Performance Measures.

SUMMARY: The Secretary of Health and Human Services, by authority of 42 U.S.C. 9836A, section 641A(b) of the Head Start Act, as amended (5 U.S.C. Appendix 2), has formed the Advisory Committee on Head Start Accountability and Educational Performance Measures (the Committee). The Committee is governed by the provisions of Public Law 92-463, as amended (5 U.S.C. Appendix 2).

The function of the Committee is to help assess the progress of HHS in developing and implementing educational measures in the Head Start Program. This includes the Head Start National Reporting System (NRS). The Committee is to provide recommendations for integrating NRS with other ongoing assessments of the effectiveness of the program. The Committee will make recommendations as to how NRS and other assessment data can be included in the broader Head Start measurement efforts found in the Family and Child Experiences

Survey (FACES), the National Head Start Impact Study, Head Start's Performance-Based Outcome System, and the ongoing evaluation of the Early Head Start program.

DATES: October 27, 2006, 8:30 a.m.–5 p.m.

Place: The Westin Embassy Row Hotel, 2100 Massachusetts Avenue, NW., Washington, DC 20008.

Agenda: The Committee will continue the discussions begun at previous Committee meetings.

SUPPLEMENTARY INFORMATION: This, the fourth meeting of the Committee, is open to the public. Persons wishing to bring written statements or papers focused on relevant, existing research with Head Start populations or on measures appropriate for low-income four- and five-year old children are welcome to do so. Individuals may e-mail such documents to *Secretaryadvisory-hs@esi-dc.com* or mail to: ESI, ATTN: Townley Knudson, Head Start Secretary's Advisory Committee, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036.

Documents received shall be presented to the Committee. The Committee meeting records shall be kept at the Aerospace Center located at 901 D Street, SW., Washington, DC 20447. The Committee's charter, past meeting agendas, meeting proceedings and materials related to this meeting can be found at: <http://www.acf.hhs.gov/programs/hsb/budget/AdvCmteSep05/index.htm>.

An interpreter for the deaf and hard-of-hearing, will be available upon advance request by contacting *Secretaryadvisory-hs@esi-dc.com*.

Due to a clerical error at the Administration for Children and

Families, this meeting notice may be published less than 15 days prior to the meeting.

Dated: October 10, 2006.

Robert A. Sargis,

Reports Clearance Officer.

[FR Doc. 06–8671 Filed 10–13–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–06–8404]

Memorandum of Understanding Between the Food and Drug Administration, and Duke University for the Cardiac Safety Research Consortium

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and Duke University, on behalf of its Duke Clinical Research Institute (DCRI). FDA and Duke University agree to collaborate under the terms and conditions of this MOU, through steering committees and technical working groups, to develop strategic plans, set priorities, and leverage resources and expertise from multiple sources, including the private sector, toward the goals of identifying indicators of cardiovascular risk, predicting adverse cardiovascular events associated with therapeutic interventions, improving the clinical utility of biomarker technologies as diagnostic and assessment tools that

facilitate the development of safer and more effective cardiovascular therapies, diagnostic, and assessment tools. This collaboration between the Parties shall be known as the Cardiac Safety Research Consortium.

DATES: The agreement became effective August 15, 2006.

FOR FURTHER INFORMATION CONTACT:

For FDA: Wendy R. Sanhai, Office of the Commissioner (HF–18), Food and Drug Administration, 5600 Fishers Lane, 14B–45, Rockville, MD 20857, 301–827–7867, FAX: 301–443–9718, wendy.sanhai@fda.hhs.gov.

For Duke Clinical Research Institute: Christopher H. Cabell, Department of Medicine, Duke University School of Medicine, DUMC Box 2705, Durham, NC 27705, 919–668–8611, FAX: 919–668–7066, chris.cabell@duke.edu.

For Duke: Office of Research Administration, Duke University Medical Center, 2424 Erwin Rd., suite 1103, Durham, NC 27705, 919–684–5175, FAX: 919–684–6278.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOUs between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: October 6, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

Reference # 225-06-8404

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

FOOD AND DRUG ADMINISTRATION

AND

DUKE UNIVERSITY

FOR THE

CARDIAC SAFETY RESEARCH CONSORTIUM

Whereas extensive cross-sector and multi-disciplinary efforts are needed to develop and to understand the clinical utility of a new generation of biomarkers¹ and other technologies, which can be used for detection, early diagnosis, prognosis and clinical assessment tools in cardiovascular research and clinical decision-making;

Whereas such new cardiovascular assessment tools, including biomarkers, if proven effective in predicting and assessing therapeutic response in clinical trials and thereby “qualified” have the potential to be adopted as assessment tools for use in medical product² development and Food And Drug Administration (FDA) regulatory evaluation and guidance;

Whereas Duke University, a nonprofit, research, education, and healthcare institution is an organization (Duke) for and on behalf of its Duke Clinical Research Institute, (DCRI) whose mission it is to develop and share knowledge that improves the care of patients around the world through innovative clinical research;

Whereas Duke started and maintains one of the nation’s first cardiovascular computerized clinical databases, said cardiovascular database being sustained for over 30 years as one of the world’s largest repositories of follow-up on patients with carefully documented coronary heart disease;

Whereas Duke’s DCRI has evolved into an organization with major efforts in clinical trials, outcomes research, and health policy;

Whereas FDA, with its unique perspective on research and development activities and in-depth understanding of clinical trial design, regulatory policy, and scientific know-how in reviewing medical products, is interested in exploring biomarker technologies as assessment tools for use in FDA guidance to facilitate medical product development;

Whereas FDA, under the terms and conditions of a Cooperative Research and Development Agreement (CRADA), has collaborated with Mortara Instrument, Inc, a CRADA partner, to design and implement an ECG Warehouse to hold ECGs obtained in drug trials to assess proarrhythmic risk;

Whereas said ECG Warehouse is now operational and capable of supporting multiple research and regulatory functions;

Whereas FDA and Duke (the Parties) have agreed to each leverage their existing resources and expertise, working with multiple public and private partners to further research and the

¹ Biological marker (biomarker) is a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes, or pharmacologic responses to a therapeutic intervention. Clin Pharmacol Ther 2001;69:89-95.

² *Medical Products* includes drug and biological products and medical devices

Reference # 225-06-8404

development of pre-competitive diagnostic and assessment tools in cardiovascular disease to advance public health:

Whereas the private sector, including industry, academia, non-profit organizations and others have expressed interest in working with the Parties to further scientific exploration of cardiovascular biomarkers and associated technologies to enhance diagnostics and therapeutic development of medical products;

Now, therefore, the Parties agree to collaborate under the terms and conditions of this Memorandum of Understanding (MOU), through steering committees and technical working groups, to develop strategic plans, set priorities, and leverage resources and expertise from multiple sources, including the private sector, toward the goals of identifying indicators of cardiovascular risk, predicting adverse cardiovascular events associated with therapeutic interventions, improving the clinical utility of biomarker technologies as diagnostic and assessment tools that facilitate the development of safer and more effective cardiovascular therapies, diagnostic, and assessment tools. This MOU sets forth the framework for collaboration between the Parties and for pursuing specific collaborative projects that may involve additional partners and will be implemented through separate agreements, as needed. This collaboration between the Parties shall be known as the Cardiac Safety Research Consortium (CSRC). The Parties anticipate that ideas and concepts, from multiple sources, will be developed by the steering committees and technical working groups. Such concepts and ideas may lead to partnerships that will be approved by an Executive Committee (EC) and implemented through separate agreements.

The Parties agree as follows:

RESPONSIBILITIES OF THE PARTIES

To pursue the goals described above, the Parties agree to work through the process described below.

1. **Goals of CSRC.** The Parties will form public-private steering committees, technical working groups, and an Executive Committee (EC) to develop concepts for potential pursuit as a CSRC activity. Under the framework of this MOU, these collaborative efforts will be developed under separate agreements that specify policies, terms, and responsibilities of each party. The EC, steering committees, and technical working groups shall consider approaches for the development and application of diagnostic and/or clinical assessment tools or biomarker technologies that enhance diagnostic or therapeutic strategies for various forms of cardiovascular disease. Specific areas of scientific activities will include, but will not be limited to, the following:
 - a. To create an ECG library from clinical trials that could be used for identifying early predictors of cardiac risk (Cardiac Risk ECG Library)
 - b. To use the Cardiac Risk ECG Library to qualify new ECG biomarkers of cardiac risk;

- c. To use the Cardiac Risk ECG Library to create a set of ECG reference standards;
 - d. To develop additional research and regulatory evaluation tools to facilitate clinical decision-making and future medical product development in the interest of public health; and
 - e. To develop standards, nomenclature, and tools to facilitate and accelerate the development of standards, and the evidence base for, new diagnostics and assessment tools, and develop educational tools to make this information more widely available to researchers, clinicians, and patients.
2. **Steering Committees and Technical Working Groups.** Each steering committee and technical working group will be responsible for developing and prioritizing concepts, developing feasibility plans for specific projects, preparing white papers on scientific rationale, evaluating existing knowledge gaps and available technologies, addressing general concepts in experimental design, preparing protocols to evaluate biomarkers in clinical trials, developing milestones and outlining approaches for assessing progress. Moreover, the steering committees and technical working groups will consider development of standards, nomenclature, and tools to facilitate and accelerate the development of, and evidence base for, new diagnostics, assessment tools, and medical products. As a result of this process, the steering committees and technical working groups will aim to increase the scientific knowledge base for cardiovascular disease and public health. The steering committees and technical working groups will include representatives from each Party as well as public and private partners and will meet or teleconference monthly. The steering committees and technical working group chairs will report to the EC, which will make the final decisions on projects that will be implemented. A quarterly meeting (face-to face or teleconference) of the steering committees and working groups will be held to discuss progress, develop consensus on working group activities, and foster communications and directions for facilitating the project(s).
3. **Priority Projects.** Priority projects that emerge from the steering committees and technical working groups will be publicized as areas of interest of the CSRC with the intention of involving participation and input from public and private sector partners. Through this process, the CSRC will seek to engage the private sector in the implementation of the research. Numerous implementation strategies are anticipated and available. These strategies may include the following:
- The FDA may perform certain research projects directly with DCRI or through other collaborations through separate agreements.
 - The private sector may perform projects directly, or may fund the research that may be administered, managed, and facilitated through DCRI and governed by separate agreements. To the extent that federal agencies are involved in the implementation of

Reference # 225-06-8404

any project, each agency is bound by all applicable federal statutes, regulations, and policies and required to act within its statutory authority.³

4. **Special Projects.** To the extent that implementation of specific projects involves working with the non-federal sector, the Parties will, consistent with all applicable statutes, regulations, policies, and their legal authorities facilitate dialogue with the appropriate potential collaborators or other partners of interest. Such interactions, facilitated and governed by separate agreements, may include a range of stakeholders, such as private non-profit organizations, industry, industry trade organizations, academic institutions, professional organizations, and patient advocacy groups.

GENERAL PROVISIONS

Proprietary and/or nonpublic information will not be disclosed under this MOU, unless such disclosure is governed by appropriate confidentiality disclosure agreements, or to the extent such disclosure is permitted by law.

Any notice or other communication required or permitted under this MOU will be in writing and will be deemed given as of the date it is received and accepted by the receiving party.

³ To the extent that federal employees are involved in the implementation of specific projects, federal employee participation will be governed by all applicable statutes, regulations, and policies on interactions with outside organizations and reviewed for permissibility by the appropriate authority within the employee's agency on a case-by-case basis.

CONTACTS

Notices or formal communications pursuant to this MOU should be sent to:

For FDA: Wendy R. Sanhai, Ph.D.
Senior Scientific Advisor
Office of the Commissioner, FDA
5600 Fishers Lane, 14B-45, HZ-1
Rockville, MD. 20857
Phone: (301) 827-7867, Fax (301) 443-9718
wendy.sanhai@fda.hhs.gov

For DCRI: Christopher H. Cabell, M.D.
Assistant Professor of Medicine
Division of Cardiology
Department of Medicine
Duke University School of Medicine
DUMC Box 2705
Durham, NC 27705
Phone: 919-668-8611, Fax: 919-668-7066
chris.cabell@duke.edu

For Duke: Office of Research Administration
Duke University Medical Center
2424 Erwin Road, Suite 1103
Durham, North Carolina 27705
Phone: 919-684-5175, Fax: 919-684-6278

TERM, TERMINATION AND MODIFICATIONS

1. This MOU constitutes the entire agreement between the Parties pertaining to the CSRC.
2. There are no representations, warranties, agreements, or understandings, express or implied, written or oral, between the Parties hereto relating to the subject matter of this MOU that are not fully expressed herein.
3. No supplements, amendments, or modifications to this MOU will be binding unless executed in writing by the Parties; such modifications are to take the form of amendments.
4. This MOU, when accepted by the Parties, will have an effective date from date of the last to sign and will remain in effect for three (3) calendar years from the effective date, unless modified or terminated. Either Party may terminate this MOU upon sixty (60) days written notice.

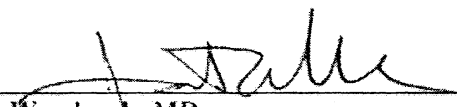
Reference # 225-06-8404

SIGNATURES OF RESPONSIBLE PARTIES

We, the undersigned, agree to abide by the terms and conditions of this MOU.

APPROVED AND ACCEPTED FOR:


FOOD AND DRUG ADMINISTRATION



Janet Woodcock, MD
Deputy Commissioner for Operations
U.S. Food and Drug Administration

Date 8/7/06

DUKE UNIVERSITY



R. Sanders Williams, MD
Dean, School of Medicine
Duke University

Date 8/15/06



DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, October 26, 2006, 11 a.m. to October 26, 2006, 3 p.m. NIH Events Management, Executive Plaza, North, 6130 Executive Boulevard, Conference Room C, Rockville, MD 20852 which was published in the **Federal Register** on September 22, 2006, 71 FR 55498.

The meeting notice is changed to reflect the name of the committee from "SBIR Topics 210 and 213" to "SBIR Topic 210 Phase II 'Using Social Marketing to Disseminate Evidence-based Energy Balance Intervention Approaches to Worksites'" The meeting is closed to the public.

Dated: October 6, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8693 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, SBIR Topic 204 (Phase II), "Plant Genomic Models for Establishing Physiological Relevance of Bioactive Components as Cancer Protectants".

Date: November 8, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd. 7149, Bethesda, MD 20892. 301/594-1286. peguesj@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 6, 2006.

Linda Payne

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8695 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, "In Vivo Cellular and Molecular Imaging Centers (ICMICS)".

Date: November 14-15, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Kenneth L Bielak, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7147, Bethesda, MD 20892. (301) 496-7576. bielatk@mail.nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel, CA-06-505, Cancer Research Network.

Date: November 20, 2006.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8101, Bethesda, MD 20892-8329. 301/496-7987. lovingeg@mail.nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of Advanced Genomic Characterization Technologies.

Date: November 29-30, 2006.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 7142, Bethesda, MD 20892. 301/594-9582. vollbert@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: October 6, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8696 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, RFA CA07-025 Community Clinical Oncology Program & RFA CA07-026 Minority-Based Community Clinical Oncology Program.

Date: December 5-7, 2006.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892-7405; (301) 496-7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 10, 2006.

Linda A. Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8705 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternatives Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine

Special Emphasis Panel, Training and Education.

Date: November 6-7, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluation grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Laurie Friedman Donze, PhD, Scientific Review Administrator, Office of Scientific Review, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301-402-1030, donzel@mail.nih.gov.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel, Dietary Supplement Research Centers.

Date: November 16, 2006.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluation grant applications.

Place: Bethesda Marriott, 5151 Pooks Hills Road, Bethesda, MD 20814.

Contact Person: Martina Schmidt, PhD, Scientific Review Administrator, Office of Scientific Review, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301-594-3456, schmidma@mail.nih.gov.

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8702 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Clinical and Epi Grant Applications.

Date: November 20, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, Washington, DC 20015.

Contact Person: Houmam H. Araj, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892-9602, 301-451-2020, haraj@mail.nih.gov.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Core and Conference Grant Applications.

Date: November 30, 2006.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300; Bethesda, MD 20892-9300, (301) 451-2020; aes@nei.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8700 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel Fellowship.

Date: December 5, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892-9304. 301-443-2369. lgunzera@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS).

Dated: October 6, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8694 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Minority Research Infrastructure Support Program.

Date: October 30-31, 2006.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892, 301-443-0004, sechu@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Fellowships and Dissertation Grants.

Date: October 30, 2006.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892-9608, 301-402-8152, mbroitma@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, NRSA Institutional Research Training Grants.

Date: November 2, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Aileen Schulte, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892-9608, 301-443-1225, aschulte@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Institutional Research Training Grants.

Date: November 3, 2006.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Yong Yao, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892-9606; 301-443-6102; yyao@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, K99 R00 Applications.

Date: November 6, 2006.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892-9608; 301/443-7216, hhaigler@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Treatments for Depression.

Date: November 14, 2006.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of

Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892-9608; 301/443-7216, hhaigler@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 6, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8697 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Brain Injury Therapeutics Development.

Date: November 3, 2006.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Richard D. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892-9529, 301-594-0635, rc218u@nih.gov.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8699 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Special Emphasis Panel, November 16, 2006, 8 a.m. to 5 p.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007 which was published in the **Federal Register** on September 29, 2006, 71 FR 57553.

The meeting will be held 10:30 a.m. to 5 p.m., same date and place. The meeting is closed to the public.

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8701 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Tissue Based Small Animal Model for HIV Drug Discovery.

Date: November 1, 2006.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Room 3258, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Lucy A. Ward, DVM, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/ NIAID/DHHS, 6700B Rockledge Drive, Bethesda, MD 20892-7616, 301-496-2550, lward@niaid.nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Integrated Preclinical/ Clinical AIDS Vaccine Development (IPCAVD) Program.

Date: November 2-3, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Tenleytown Ballroom, Washington, DC 20015.

Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Room 3130, Bethesda, MD 20892-7616, 301-496-7966, rbinder@niaid.nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Immunology of Early HIV Infection.

Date: November 2, 2006.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Room 3258, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Barney Duane Price, PhD, Scientific Review Administrator, Scientific Review Program, DHHS/NIH/NIAID/DEA, Room 3265, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892-7616, 301-451-2592, pricebd@niaid.nih.gov.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group, Acquired Immunodeficiency Syndrome Research Review Committee.

Date: November 14, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Regency, Rockville, MD 20852.

Contact Person: Erica L. Brown, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/ NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892-7616, 301-451-2639, ebrown@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8703 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby give of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, DD-80 Special Emphasis Panel.

Date: October 12, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, Bethesda, MD 20892-9304, (301) 443-2926, skandasa@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: October 10, 2006.

Linda A. Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8704 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities, Office of Science Policy, Office of the Director; Notice of Closed Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Science Advisory Board for Biosecurity (NSABB).

Under authority 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established NSABB to provide advice, guidance and leadership regarding Federal oversight of dual-use research, defined as biological research with legitimate scientific purposes that could be misused to pose a biological threat to public health and/or national security.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(1), Title 5 U.S.C., as amended because matters sensitive to the interest of national security will be presented.

Name of Committee: National Science Advisory Board for Biosecurity.

Date: October 26, 2006.

Time: 12 p.m. to 5 p.m.

Agenda: Representatives from the Intelligence Community will present a classified session on the current counterterrorism and counterproliferation threats to the U.S.

Place: At a predetermined location in Virginia.

Contact Person: Laurie Lewallen, NSABB Program Assistant, NIH Office of Biotechnology Activities, 6705 Rockledge Drive, Bethesda, Maryland 20892, (301) 496-9838.

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8706 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Genetic Variation and Evolution Study Section.

Date: October 12-13, 2006.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892. 301-435-1038. remondid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fungal Pathogens.

Date: October 13, 2006.

Time: 1:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Fouad A. El-Zaatar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814-9692. (301) 435-1149. etzaataf@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.

Date: October 19, 2006

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2901 Wisconsin Avenue, Washington, DC 20007.

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7802, Bethesda, MD 20892. (301) 435-1739. gangulyc@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Incidence of Hemochromatosis/Iron Overload and Associated Disorders.

Date: October 19, 2006.

Time: 2 p.m to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Christopher Sempos, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda, MD 20892. (301) 451-1329. semposch@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Developmental Disabilities, Communication and Science Education.

Date: October 23, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Drake Hotel, 140 E. Walton Place, Chicago, IL 60611.

Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892. (301) 594-6836. tatham@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Oral Complications of Cancer Therapies.

Date: October 31, 2006-November 1, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Eva Petrakova, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892. 301-435-1716. petrakoe@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Nanomicroscopy in Heart Failure.

Date: October 31, 2006.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Bukhtiar H. Shah, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095J, MSC 7822, Bethesda, MD 20892. 301-435-1233. shahb@csr.nih.gov.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Clinical Studies and Epidemiology Study Section.

Date: November 1-2, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Hilary D. Sigmon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892. (301) 594-6377. sigmonh@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ESTA Exploratory and Developmental Grants.

Date: November 1–2, 2006.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892. 301-435-1212. kumarra@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiac Energetics.

Date: November 1, 2006.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maqsood A. Wani, PhD, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892. 301-435-2270. wanimaqs@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioengineering Research Partnerships.

Date: November 2, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Khalid Masood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892. 301-435-2392. masoodk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Behavioral Neuroscience.

Date: November 2, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892. (301) 435-1713. melchioc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Cell Biology.

Date: November 2–3, 2006.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jonathan Arias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892. 301-435-2406. ariasj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Sciences Small Business Activities.

Date: November 2, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892. (301) 435-8367. boerboom@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neurophysiology, Devices and Neuroprosthetics.

Date: November 2–3, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Vinod Charles, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892. 301-435-0902. charlesvi@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship Review: Sensory, Motor, and Cognitive Neuroscience.

Date: November 2, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Judith A. Finkelstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892. 301-435-1249. finkelsj@csr.nih.gov.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Clinical and Integrative Cardiovascular Sciences Study Section.

Date: November 2–3, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128,

MSC 7814, Bethesda, MD 20892. (301) 435-1850. dowellr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genes, Genomes, and Genetics Specials.

Date: November 2–3, 2006.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott at Metro Center, 775 12th Street, NW., Washington, DC 20005.

Contact Person: Michael A. Marino, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2216, MSC 7890, Bethesda, MD 20892. (301) 435-0601. marinomi@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Brain Disorders and Clinical Neurosciences Member Conflicts.

Date: November 2–3, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Suzan Nadi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892. (301) 435-1259. nadis@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, F03B Biophysical and Physiological Neuroscience.

Date: November 2–3, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Jurys Washington Hotel, 1500 New Hampshire Ave., NW., Washington, DC 20036.

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892. (301) 435-1265. langm@csr.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroimmunology and Brain Tumors Study Section.

Date: November 2–3, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M. Street, NW., Washington, DC 20036.

Contact Person: Jay Joshi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892. (301) 435-1184. joshij@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Infectious Agent Detection and Diagnostics.

Date: November 2, 2006.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892. (301) 435-0903. saadisoh@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health of the Population SBIR Study Section Panel.

Date: November 2-3, 2006.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Karin F. Helmers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892. (301) 435-1017. helmersk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Non-HIV Anti-Infective Therapeutics.

Date: November 2, 2006.

Time: 9 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Rossana Berti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3191, MSC 7846, Bethesda, MD 20892. 301-402-6411. bertiros@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RIBT Member Conflicts.

Date: November 2, 2006.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: George M. Barnas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7817, Bethesda, MD 20892. 301-435-0696. barnasg@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neural Control of Cardiovascular Function.

Date: November 2, 2006.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802 Bethesda, MD 20892. (301) 435-1210. chaudhaa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Technology Development.

Date: November 2, 2006.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sally Ann Amero, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7849, Bethesda, MD 20892. 301-435-1159. ameros@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, GENHAT Collaborative.

Date: November 2, 2006.

Time: 12:30 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Ave., NW., Washington, DC 20009.

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892. 301-435-1850. dowellr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Endocrinology, Metabolism, Nutrition and Reproductive Special Emphasis Panel SBIR.

Date: November 3, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892. 301-435-1041. krishnak@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Research on Ethical Issues in Human Studies.

Date: November 3, 2006.

Time: 9 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Stephen H. Krosnick, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028A, MSC 7770, Bethesda, MD 20892. 301-435-1712. krosnics@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Globin Gene Regulation.

Date: November 3, 2006.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892. 301-435-1195. sur@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Metal Ions and Kinases.

Date: November 3, 2006.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Ave., NW., Washington, DC 20007.

Contact Person: Alessandra M. Bini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892. 301-435-1024. binia@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 5, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06-8698 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP); Center for the Evaluation of Risks to Human Reproduction (CERHR); Availability of the Draft Expert Panel Report on Hydroxyurea and Request for Public Comment on the Draft Report; Announcement of the Hydroxyurea Expert Panel Meeting

AGENCY: National Institute for Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Announcement of a meeting and request for public comment.

SUMMARY: The CERHR announces the availability of the draft expert panel report for hydroxyurea on November 1, 2006, from the CERHR Web site (<http://cerhr.niehs.nih.gov>) or in printed text from the CERHR (see **FOR FURTHER INFORMATION CONTACT** below). The CERHR invites the submission of public comments on sections 1-4 of the draft expert panel report (see **SUPPLEMENTARY INFORMATION** below). The expert panel will meet on January 24-26, 2007, at the Radisson Hotel Old Town in Alexandria, VA, to review and revise the draft expert panel report and reach conclusions regarding whether exposure to hydroxyurea is a hazard to human development or reproduction. The expert panel will also identify data gaps and research needs. CERHR expert panel meetings are open to the public with time scheduled for oral public comment. Attendance is limited only by

the available meeting room space. Following the expert panel meeting and completion of the expert panel report, the CERHR will post the final report on its Web site and solicit public comment on it through a **Federal Register** notice.

DATES: The expert panel meeting for hydroxyurea will be held on January 24–26, 2007. Sections 1–4 of the draft expert panel report will be available for public comment on November 1, 2006. Written public comments on the draft report must be received by December 15, 2006. Time is set-aside at the expert panel meeting on January 24, 2007 for oral public comments. Individuals wishing to make oral public comments are asked to contact Dr. Michael D. Shelby, CERHR Director, by January 17, 2007, and if possible, send a copy of the statement or talking points at that time. Persons needing special assistance in order to attend are asked to contact Dr. Shelby at least 7 business days prior to the meeting.

ADDRESSES: The expert panel meeting on hydroxyurea will be held at the Radisson Hotel Old Town 901 N. Fairfax Street Alexandria, VA 22314–1501 (telephone: 703–683–6000, facsimile: 703–683–7597). Comments on the draft expert panel report should be sent to Dr. Michael D. Shelby, CERHR Director, NIEHS, P.O. Box 12233, MD EC–32, Research Triangle Park, NC 27709 (mail), (919) 316–4511 (fax), or shelby@niehs.nih.gov (e-mail). Courier address: CERHR, 79 T.W. Alexander Drive, Building 4401, Room 103, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Dr. Michael D. Shelby, CERHR Director, 919–541–3455, shelby@niehs.nih.gov.

SUPPLEMENTARY INFORMATION:

Background

Hydroxyurea (CAS RN: 127–07–1) is used in the treatment of cancer, sickle cell disease, and thalassemia. It is the only treatment for sickle cell disease used in children aside from blood transfusion. Hydroxyurea may be used in the treatment of children and adults with sickle cell disease for an extended period of time or for repeated cycles of therapy. Treatment with hydroxyurea may be associated with cytotoxic and myelosuppressive effects and hydroxyurea is mutagenic. Hydroxyurea is FDA-approved for reducing the frequency of painful crises and the need for blood transfusions in adults with sickle cell anemia who experience recurrent moderate to severe painful crises. CERHR selected this chemical for evaluation because of (1) increasing use in the treatment of sickle cell disease in children and adults, (2) knowledge that

it inhibits DNA synthesis and is cytotoxic, and (3) published evidence of reproductive and developmental toxicity in rodents.

At the expert panel meeting, the expert panel will review and revise the draft expert panel report and reach conclusions regarding whether exposure to hydroxyurea is a hazard to human reproduction or development. Each draft expert panel report has the following sections:

- 1.0 Chemistry, Use, and Human Exposure.
- 2.0 General Toxicological and Biological Effects.
- 3.0 Developmental Toxicity Data.
- 4.0 Reproductive Toxicity Data.
- 5.0 Summary, Conclusions, and Critical Data Needs (to be prepared at expert panel meeting).

Request for Comments

The CERHR invites written public comments on sections 1–4 of the draft expert panel report on hydroxyurea. Any comments received will be posted on the CERHR Web site prior to the meeting and distributed to the expert panel and CERHR staff for their consideration in revising the draft report and preparing for the expert panel meeting. Persons submitting written comments are asked to include their name and contact information (affiliation, mailing address, telephone and facsimile numbers, e-mail, and sponsoring organization, if any) and send them to Dr. Shelby (*see ADDRESSES* above) for receipt by December 15, 2006.

Time is set-aside on January 24, 2007, for the presentation of oral public comments at the expert panel meeting. Seven minutes will be available for each speaker (one speaker per organization). When registering to comment orally, please provide your name, affiliation, mailing address, telephone and facsimile numbers, e-mail and sponsoring organization (if any). If possible, send a copy of the statement or talking points to Dr. Shelby by January 17. This statement will be provided to the expert panel to assist them in identifying issues for discussion and will be noted in the meeting record. Registration for presentation of oral comments will also be available at the meeting on January 24, 2007, from 7:30–8:30 a.m. Persons registering at the meeting are asked to bring 20 copies of their statement or talking points for distribution to the expert panel and for the record.

Preliminary Agenda

The meeting begins each day at 8:30 a.m. On January 24 and 25, it is anticipated that a lunch break will occur

from noon–1 p.m. and the meeting will adjourn at 5–6 p.m. The meeting is expected to adjourn by noon on January 26; however, adjournment may occur earlier or later depending upon the time needed by the expert panel to complete its work. Anticipated agenda topics for each day are listed below.

January 24, 2007

- Opening remarks.
- Oral public comments (7 minutes per speaker; one representative per group).
- Review of sections 1–4 of the draft expert panel report on hydroxyurea.
- Discussion of Section 5.0 Summary, Conclusions, and Critical Data Needs.

January 25, 2007

- Discussion of Section 5.0 Summary, Conclusions, and Critical Data Needs.
- Preparation of draft summaries and conclusion statements.

January 26, 2007

- Presentation, discussion of, and agreement on summaries, conclusions, and data needs.
- Closing comments.

Expert Panel Roster

The CERHR expert panel is composed of independent scientists selected for their scientific expertise in reproductive and/or developmental toxicology and other areas of science relevant for these evaluations.

Erica Liebelt, M.D. (Chair), University of Alabama, Birmingham, AL.
 Sophie Balk, M.D., Albert Einstein College of Medicine, New York, NY.
 Will Faber, PhD, Consultant, Victor, NY.
 Jeffrey Fisher, PhD, University of Georgia, Athens, GA.
 Claude Hughes, Jr., M.D., PhD, Quintiles, Inc., Research Triangle Park, NC.
 Sophie Lanzkron, M.D., Johns Hopkins University, Baltimore, MD.
 Kerry Lewis, M.D., Howard University, Washington, DC.
 Harihara Mehendale, PhD, University of Louisiana, Monroe, LA.
 Marvin Meistrich, PhD, University of Texas, Houston, TX.
 John Rogers, PhD, U.S. Environmental Protection Agency, Research Triangle Park, NC.
 Aziza Shad, M.D., Georgetown University, Washington, DC.
 Richard Skalko, PhD, East Tennessee State University, Johnson City, TN.
 Edward Stanek III, PhD, University of Massachusetts, Amherst, MA.

Background Information on the CERHR

The NTP established the NTP CERHR in June 1998 [**Federal Register**,

December 14, 1998 [Volume 63, Number 239, page 68782]). The CERHR is a publicly accessible resource for information about adverse reproductive and/or developmental health effects associated with exposure to environmental and/or occupational exposures. Expert panels conduct scientific evaluations of agents selected by the CERHR in public forums.

The CERHR invites the nomination of agents for review or scientists for its expert registry. Information about CERHR and the nomination process can be obtained from its homepage (<http://cerhr.niehs.nih.gov>) or by contacting Dr. Shelby (see **FOR FURTHER INFORMATION CONTACT** above). The CERHR selects chemicals for evaluation based upon several factors including production volume, potential for human exposure from use and occurrence in the environment, extent of public concern, and extent of data from reproductive and developmental toxicity studies.

CERHR follows a formal, multi-step process for review and evaluation of selected chemicals. The formal evaluation process was published in the **Federal Register** on July 16, 2001 (Volume 66, Number 136, pages 37047–37048) and is available on the CERHR Web site under “About CERHR” or in printed copy from the CERHR.

Dated: October 5, 2006.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E6–17137 Filed 10–13–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP), NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Notice of Availability of the NICEATM Pre-Screen Evaluation of a Cell Proliferation Assay To Detect Estrogenic Activity: Request for Comments and Nominations of Other *In Vitro* Endocrine Disruptor Test Methods

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Report availability and request for comments and nominations.

SUMMARY: In January 2006, the Interagency Coordinating Committee on Alternative Methods (ICCVAM) received

a test method nomination for the validation of a cell-based estrogen receptor (ER) transcriptional activation (TA) test method from CertiChem, Inc. CertiChem, Inc. submitted a background review document (BRD) containing information on historical development of the test method, the rationale for the test method, and supporting materials. In accordance with the ICCVAM nomination process, NICEATM conducted a pre-screen evaluation of the BRD to determine the extent that it addressed ICCVAM prioritization criteria, submission guidelines, and recommendations for standardization and validation of *in vitro* endocrine disruptor test methods. NICEATM also reviewed the performance of the test method based on pre-validation data to determine if it warranted consideration for further validation. ICCVAM requests public comments on the pre-screen evaluation titled, “Pre-Screen Evaluation of the CertiChem, Inc. *In Vitro* Endocrine Disruptor Assay (Robotic MCF–7 Cell Proliferation Assay of Estrogenic Activity.)” The pre-screen evaluation is available with supporting documents at (<http://iccvam.niehs.nih.gov/methods/endocrine.htm>). ICCVAM also invites public comments on whether this test method should be considered for additional validation studies. In addition, ICCVAM again invites the nomination of other *in vitro* ER and androgen receptor (AR) binding and TA test methods for which there are standardized test method protocols, pre-validation data, and proposed validation study designs.

DATES: Comments and nominations should be received by November 30, 2006.

ADDRESSES: Correspondence should be sent by mail, fax, or e-mail to Dr. William S. Stokes, NICEATM Director, NIEHS, P.O. Box 12233, MD EC–17, Research Triangle Park, NC 27709, (phone) 919–541–2384, (fax) 919–541–0947, (e-mail) niceatm@niehs.nih.gov.

SUPPLEMENTARY INFORMATION:

Background

In May 2003, ICCVAM published the report, “ICCVAM Evaluation of *In Vitro* Test Methods for Detecting Potential Endocrine Disruptors: Estrogen Receptor and Androgen Receptor Binding and Transcriptional Activation Assays (NIH Publication No. 03–4503; available: <http://iccvam.niehs.nih.gov/methods/endocrine.htm>). The report recommends minimum procedural standards that should be incorporated in standardized test method protocols and minimum lists of chemicals that should be used

for validation studies. A request was made for nominations of validation studies for *in vitro* ER and AR binding and TA test methods based on these recommendations and for which there are standardized test method protocols, pre-validation data, and proposed validation study designs (69 FR 21564). ICCVAM subsequently received a nomination from CertiChem, Inc. for the validation of a cell-based ER TA method that evaluates the estrogenic activity of substances by measuring whether and to what extent a substance induces cell proliferation via ER-dependent pathways. In support of this nomination, ICCVAM received a BRD containing information on the test method’s historical development, its rationale, its protocol, and other supporting materials. In accordance with the ICCVAM nomination process, NICEATM conducted a pre-screen evaluation of the BRD to determine the extent that it addressed ICCVAM prioritization criteria, submission guidelines, and recommendations for standardization and validation of *in vitro* endocrine disruptor test methods. NICEATM also reviewed the performance of the proposed test method based on pre-validation data to determine if it warranted consideration for further validation. The BRD was reviewed for completeness and to identify aspects or omissions that could impede further review. The criteria considered in evaluating information provided in the BRD are:

- The extent to which the BRD addresses ICCVAM prioritization criteria.
- The extent to which the BRD provides the information requested in the *ICCVAM Guidelines for the Nomination and Submission of New, Revised, and Alternative Test Methods* (NIH Pub. No. 03–4508, available at <http://iccvam.niehs.nih.gov>).
- The extent to which the proposed test method adheres to the recommendations of the *ICCVAM Evaluation of In Vitro Test Methods for Detecting Potential Endocrine Disruptors* (NIH Pub. No. 03–4503, available at <http://iccvam.niehs.nih.gov/methods/endocrine.htm>), especially those regarding essential test method components and recommended validation substances.
- The extent to which the proposed test method shows adequate performance (reliability and accuracy) during pre-validation to warrant consideration for validation studies.

Based on the pre-screen evaluation, ICCVAM made a draft recommendation that this test method be considered as a high priority for validation studies to

evaluate its usefulness and limitations for detecting substances with *in vitro* estrogenic agonist and antagonist activity, and that standardization of an anti-estrogenic protocol be developed prior to starting the main validation effort. ICCVAM will finalize its recommendations on the priority for future validation of this test method after considering comments received from the public and the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM) at their November 30, 2006 meeting.

ICCVAM also takes this opportunity to again invite the nomination of other *in vitro* ER and AR binding and TA test methods for which there are standardized test method protocols, pre-validation data, and proposed validation study designs (see also 69 FR 21564).

When submitting written comments and nominations please refer to this **Federal Register** notice and include appropriate contact information (name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization, if applicable). All comments received by the deadline listed above will be placed on the ICCVAM/NICEATM Web site and made available to ICCVAM. In addition, there will be an opportunity for oral public comments on the draft ICCVAM pre-screen evaluation during a meeting of the SACATM scheduled for November 30, 2006. Details of the SACATM meeting are published as a separate **Federal Register** notice (see <http://ntp.niehs.nih.gov/go/frn> for the **Federal Register** notice citation).

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that use or generate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological test methods that more accurately assess the safety and hazards of chemicals and products and that refine, reduce, or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285) established ICCVAM as a permanent interagency committee of the NIEHS under the NICEATM. NICEATM administers the ICCVAM and provides scientific and operational support for ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and

NICEATM can be found at the following Web site: <http://iccvam.niehs.nih.gov>.

Dated: October 5, 2006.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E6-17134 Filed 10-13-06; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: National Explosives Detection Canine Team Program (NEDCTP), Training Course Feedback Forms

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on August 9, 2006, 71 FR 45573.

DATES: Send your comments by November 15, 2006. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Katrina Kletzly, Attorney-Advisor, Office of the Chief Counsel, TSA-2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202-4220; telephone (571) 227-1995; facsimile (571) 227-1381.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501

et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: National Explosives Detection Canine Team Program (NEDCTP), Training Course Feedback Forms.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): Training Course Feedback Forms.

Affected Public: Canine course participants.

Abstract: The National Explosives Detection Canine Team Program (NEDCTP) is a component of TSA's Office of Law Enforcement/Federal Air Marshal Service and is a cooperative partnership with participating airports and mass transit systems. TSA provides and trains the canines, and provides in-depth training for the handlers. TSA also partially reimburses the participating agency for costs associated with the teams, such as salaries, overtime, canine food, and veterinary care. Following training, TSA requests that handlers and supervisors complete TSA's Training Course Feedback Form. TSA will use the feedback results to continuously evaluate the quality of training, improve the course curriculum and course of instruction, as well as obtain new ideas, best practices, and insight on the overall canine training program.

Number of Respondents: 150.

Estimated Annual Burden Hours: An estimated 150 hours annually.

Issued in Arlington, Virginia, on October 10, 2006.

Lisa S. Dean,

Privacy Officer.

[FR Doc. E6-17132 Filed 10-13-06; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF THE INTERIOR**Geological Survey****Bird Banding Laboratory Advisory Committee****AGENCY:** U.S. Geological Survey.**ACTION:** Notice of meeting.

SUMMARY: The next meeting of the Advisory Committee on the Bird Banding Laboratory (Committee) will take place November 7 and 8, 2006, at the Red Lion Hotel, 3500 NE Cornell Road, Hillsboro, Oregon 97124. The meeting runs from 8:30 a.m. to 4:30 p.m. each day. The purpose of the Advisory Committee, which is co-chaired by the USGS and the U.S. Fish and Wildlife Service, is to represent the interests of the bird banding community, including both game and non-game birds, in advising the U.S. Department of the Interior and the USGS on current and future management of the Bird Banding Laboratory (BBL). The agenda for this meeting will focus on finalizing the draft report, including numerous recommendations for improving the BBL's business operations and its level of customer service, begun with the Committee's first meeting in November, 2005.

The meeting is open to all members of the interested public, and time on the agenda has been reserved at the conclusion of each day's work for the Committee to receive verbal comments (limited to 5 minutes per person) from the public. To speak before the Committee, please register in advance with Mr. Daniel James (see contact information below), the USGS Designated Federal Official (DFO) for the Committee).

FOR FURTHER INFORMATION CONTACT: Daniel L. James, 12201 Sunrise Valley Drive, MS 301, Reston, Virginia 20192; 703-648-4253, e-mail: dan_james@usgs.gov.

Dated: October 10, 2006.

Susan D. Haseltine,
Associate Director for Biology.

[FR Doc. 06-8668 Filed 10-13-06; 8:45 am]

BILLING CODE 4311-AM-M**DEPARTMENT OF THE INTERIOR****Geological Survey****National Earthquake Prediction Evaluation Council****AGENCY:** U.S. Geological Survey.**ACTION:** Notice of meeting.

SUMMARY: Pursuant to Public Law 96-472, the National Earthquake Prediction

Evaluation Council (NEPEC) will hold a meeting on October 16 and 17, 2006. The meeting location is University of California, Engineering Building Unit, Room 205-206, 900 University Avenue, Riverside, California 92521. The Council is comprised of members from academia and the Federal government. The Council shall advise the Director of the U.S. Geological Survey (USGS) on proposed earthquake predictions, on the completeness and scientific validity of the available data related to earthquake predictions, and on related matters as assigned by the Director.

At this meeting, the Council will discuss recent findings of the Working Group on California Earthquake Probabilities; will hear presentations on statistical tests being applied to prediction algorithms under the Regional Earthquake Likelihood Models project and on the organizational structure of the Center for Study of Earthquake Predictability; and will edit a draft document that provides guidelines to researchers on posing earthquake predictions in a rigorous and testable manner.

Meetings of the National Earthquake Prediction Evaluation Council are open to the public. A portion of the meeting will be closed to the public pursuant to subsections (c)(2), and (6) of subsection 552b of Title 5, U.S. Code. Those planning to attend the meeting may contact Dr. Michael Blanpied, the Executive Secretary for the NEPEC [U.S. Geological Survey, MS 905, 12201 Sunrise Valley Dr., Reston, Virginia 20192, e-mail mblanpied@usgs.gov], in order to receive copies of the agenda and other materials in advance. It is the policy of the NEPEC to accept written public comments of any length and to accommodate brief oral comments whenever possible. Interested parties should contact Dr. Blanpied at least 5 days prior to the meeting. Individuals requiring special accommodations to access the meeting should also contact Dr. Blanpied so that appropriate arrangements can be made.

DATES: October 16, 2006, commencing at 10:30 a.m. and adjourning at or before 2 p.m. on October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Blanpied, U.S. Geological Survey, MS 905, 12201 Sunrise Valley Drive, Reston, Virginia 20192, (703) 648-6696, mblanpied@usgs.gov.

Dated: October 2, 2006.

Rama Kotra,
Acting Associate Director for Geology.
[FR Doc. 06-8669 Filed 10-13-06; 8:45 am]

BILLING CODE 4311-AM-M**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****[CA-310-0777-XG]****Notice of Public Meeting: Northwest California Resource Advisory Council****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, Dec. 7 and 8, 2006, in Redding, California. On Dec. 7, the members will convene at the BLM Redding Field Office, 355 Hemsted Dr., and depart immediately for a field trip to the upland areas of the Sacramento River Bend Area of Critical Environmental Concern. Members of the public are welcome on the tour. They must provide their own transportation and lunch. On Dec. 8, the meeting begins at 8 a.m. in the Conference Room of the Redding Field Office. Time for public comments is reserved for 11 a.m.

FOR FURTHER INFORMATION CONTACT: Lynda Roush, BLM Arcata Field Office manager, (707) 825-2300; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252-5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda items include discussion of RAC involvement in developing recreation fee business plans, an update on development of a management plan for the South Spit at Humboldt Bay, resource management issues associated with abalone harvest offshore from the Stornetta Public Lands and an update on recovery from wildfire. The RAC members will also hear status reports from the Arcata, Redding and Ukiah field office managers. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of

the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: October 6, 2006.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 06-8712 Filed 10-13-06; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-310-0777-XX]

Notice of Public Meeting: Northeast California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northeast California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, February 8-9, 2007, in the Conference Room of the Bureau of Land Management Eagle Lake Field Office, Susanville, CA. The meeting runs from 1 to 5 p.m. February 8 and from 8 a.m. to noon on February 9. Time for public comment is reserved at 11 a.m. on Friday, February 9.

FOR FURTHER INFORMATION CONTACT: Tim Burke, BLM Alturas Field Office Manager, (530) 233-4666; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252-5332.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northeast California and the northwest corner of Nevada. At this meeting, agenda topics will include discussion and review of wild horse herd management, a five-year strategy for the BLM Litchfield Wild Horse and Burro Corrals, and updates on Resource Management Plans for the Eagle Lake, Alturas and Surprise field offices. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time

allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: October 6, 2006.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. E6-17049 Filed 10-13-06; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-952-07-1420-BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the date indicated below.

FOR FURTHER INFORMATION CONTACT: David D. Morlan, Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775-861-6541.

SUPPLEMENTARY INFORMATION:

1. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on July 10, 2006:

The supplemental plat, showing amended lottings of lots 21 and 22, section 19, Township 19 North, Range 44 East, Mount Diablo Meridian, Nevada, was accepted July 7, 2006.

This supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

2. The plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on July 24, 2006.

The plat representing the dependent resurvey of portions of the south and west boundaries and a portion of the subdivisional lines, and the subdivision of section 32, Township 19 North, Range 19 East, Mount Diablo Meridian, Nevada, under Group No. 768, was accepted July 21, 2006. This survey was

executed to meet certain administrative needs of the U.S. Forest Service.

3. The plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on August 24, 2006.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 16 and 17, Township 30 North, Range 19 East, Mount Diablo Meridian, Nevada, under Group No. 819, was accepted August 22, 2006.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on September 13, 2006.

The plat representing the dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision of section 29, the further subdivision of section 29, and a metes-and-bounds survey in section 29, Township 19 South, Range 60 East, Mount Diablo Meridian, Nevada, under Group No. 825, was accepted September 13, 2006.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys may be furnished to the public upon payment of the appropriate fees.

Dated: October 6, 2006.

David D. Morlan,

Chief Cadastral Surveyor, Nevada.

[FR Doc. E6-17085 Filed 10-13-06; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Chukchi Sea Planning Area Oil and Gas Lease Sale 193 and Seismic Surveying Activities in the Chukchi Sea

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Availability of a Draft Environmental Impact Statement (DEIS) and associated Public Hearings.

SUMMARY: The purpose of the proposed Federal action addressed in this DEIS (OCS EIS/EA MMS 2006-060) is to offer for lease areas in the Chukchi Sea Outer Continental Shelf (OCS) that might

contain economically recoverable oil and gas resources. This lease sale would provide qualified bidders the opportunity to bid on certain blocks in the Chukchi Sea OCS to gain conditional rights to explore, develop, and produce oil and natural gas. This DEIS is the National Environmental Policy Act (NEPA) analysis to enable the Minerals Management Service (MMS) to make informed decisions on the configuration of the lease sale and the applicable mitigation measures. In the DEIS, the potential direct, indirect, and cumulative environmental impacts of the sale, including estimated exploration and development and production activities related to the sale, on the physical, biological, and human environments in the Chukchi Sea area are analyzed. The DEIS also provides NEPA evaluation for exploration activities in the Chukchi Sea, including seismic survey geophysical permitting (30 CFR 251), ancillary activities (30 CFR 250.207), and exploration plans (30 CFR 250.214). In addition, the DEIS will provide NEPA documentation for the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service's (NMFS) possible issuance of Incidental Harassment Authorizations to the seismic-survey industry to take marine mammals by harassment, incidental to conducting prelease and ancillary on-lease oil and gas seismic surveys in the Chukchi Sea. To address its NEPA responsibilities, the NMFS agreed to become a cooperating agency (as that term is defined in 40 CFR 1501.6) and proposes to adopt the DEIS as authorized by 40 CFR 1506.3 as its own NEPA statement.

SUPPLEMENTARY INFORMATION: In this DEIS, the MMS has examined the potential environmental effects of the Proposed Action and its alternatives. The Proposed Action (Alternative I) is to conduct Chukchi Sea OCS Lease Sale 193 in 2007. The resource estimates and scenario information included in this DEIS analysis are presented as a range of activities that could be associated with the sale, including exploration seismic surveying, on-lease ancillary activities, exploration and delineation drilling, development and production of OCS oil and gas resources, and lease abandonment. The Proposed Action would offer for lease approximately 6,155 whole and partial blocks (about 34 million acres) identified as the program area in the 2002–2007 5-Year Program. The proposed Sale 193 area excludes a 15- to 50-mile (mi)-wide corridor along the coast, the polynya or spring lead system. Water depths in the sale area

vary from about 95 feet (ft) to approximately 262 ft. A small portion of the northeast corner of the area deepens to approximately 9,800 ft.

Alternative II (No Lease Sale) is equivalent to cancellation of the Proposed Action as scheduled in the approved 5-Year Program. The opportunity for development of the estimated oil and gas resources that could have resulted from the Proposed Action would be precluded or postponed, and any potential environmental impacts resulting from the Proposed Action would not occur or would be postponed.

Alternative III (Corridor I Deferral) is the Proposed Action excluding an area comprising approximately 1,649 whole or partial blocks along the coastward edge of the sale area. This alternative would attempt to reduce potential impacts to subsistence hunting as well as various wildlife species and associated habitats.

Alternative IV (Corridor II Deferral) is the Proposed Action excluding an area comprising approximately 795 whole or partial blocks along the coastward edge of the sale area. This alternative was developed as a result of the 1987 Biological Opinion for the Chukchi Sea as recommended by the NMFS.

The MMS also examines potential environmental effects of prelease seismic survey geophysical permitting. The DEIS includes an analysis of a range of mitigation alternatives for seismic surveys which were previously considered in the Programmatic Environmental Assessment Arctic Ocean Outer Continental Shelf Seismic Surveys—2006. Commenters are invited to identify additional alternatives for MMS's consideration. The Endangered Species Act (ESA) consultation with the U.S. Fish and Wildlife Service concerning Spectacled and Steller's eiders is ongoing. The NMFS concluded in its Arctic Region Biological Opinion, dated June 2006, that leasing and exploration activities are not likely to jeopardize the continued existence of the threatened, endangered, or candidate species under their jurisdiction; however, the potential additive effects of oil and gas activities associated with exploration, production, and transportation throughout the Chukchi Sea and neighboring Beaufort Sea is of concern. The NMFS concluded further that activities associated with seismic surveys in the Chukchi Sea may adversely affect but not jeopardize the continued existence of any species listed under the ESA that are under the jurisdiction of the NMFS.

DEIS Availability: To obtain a copy of the DEIS, you may contact the Minerals

Management Service, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5820, telephone (907) 334–5200. You may also view the DEIS on the MMS Web site at <http://www.mms.gov/alaska> or at the following locations:

Alaska Pacific University, Academic Support Center Library, 4101 University Drive, Anchorage, Alaska;
Alaska Resources Library and Information Service (ARLIS), 3211 Providence Drive, Suite 111, Anchorage, Alaska;
Alaska State Library, Government Publications, State Office Building, 333 Willoughby, Juneau, Alaska;
City of Point Hope, P.O. Box 169, Point Hope, Alaska;
City of Wainwright, P.O. Box 9, Wainwright, Alaska;
Fairbanks North Star Borough, Noel Wien Library, 1215 Cowles Street, Fairbanks, Alaska;
Northern Alaska Environmental Center Library, 218 Driveway, Fairbanks, Alaska;
Point Lay Tribal Council, P.O. Box 59031 Point Lay, Alaska;
Tuzzy Consortium Library, P.O. Box 749, Barrow, Alaska;
U.S. Environmental Protection Agency, Region 10 Library, 1200 6th Avenue, OMP–104, Seattle, Washington;
University of Alaska Anchorage, Consortium Library, 3211 Providence Drive, Anchorage, Alaska;
University of Alaska Fairbanks, Elmer E. Rasmuson Library, Government Documents, 310 Tanana Drive, Fairbanks, Alaska;
University of Alaska Fairbanks, Geophysical Institute, Government Documents, Fairbanks, Alaska;
Z. J. Loussac Library, 3600 Denali Street, Anchorage, Alaska.

Written Comments: Interested parties may submit their written comments on this DEIS until December 15, 2006 to the Regional Director, Alaska OCS Region, Minerals Management Service, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5820, or online at <http://occonnect.mms.gov>. Our practice is to make comments, including names and home addresses of respondents available for public review. Individual commenters may ask that we withhold their name, home address, or both from the public record, and we will honor such a request to the extent allowable by law. If you submit comments and wish us to withhold such information, you must state so prominently at the beginning of your submission. We will not consider anonymous comments, and we will make available for inspection in their

entirety all comments submitted by organizations or businesses or by individuals identifying themselves as representatives of organizations or businesses.

Public Hearings: Public hearings will be held to receive comments on the DEIS. The hearings will provide the MMS with additional information that will help in evaluating potential effects of the leasing program in the Chukchi Sea. The locations and dates of the public hearings are as follows:

- *Wainwright, Alaska.* November 13, 2006, at the Robert James Community Center, 7 p.m., contact: Mr. Albert Barros, (907) 334-5209.
- *Point Lay, Alaska.* November 14, 2006, at the Point Lay Community Center, 7 p.m., contact: Mr. Albert Barros, (907) 334-5209.
- *Point Hope, Alaska.* November 15, 2006, at the Kagi Center, 7 p.m., contact: Mr. Albert Barros, (907) 334-5209.
- *Barrow, Alaska.* November 16, 2006, at the Inupiat Heritage Center, 7 p.m., contact: Mr. Albert Barros, (907) 334-5209.
- *Anchorage, Alaska.* December 6, 2006, at the Centerpoint Building, 3801 Centerpoint Drive, 1st Floor Conference Room, 7 p.m., contact: Mr. Albert Barros, (907) 334-5209.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503-5820, Ms. Deborah Cranswick, telephone (907) 334-5267.

Dated: September 29, 2006.

Robert P. LaBelle,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. E6-17242 Filed 10-13-06; 8:45 am]

BILLING CODE 4310-MR-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-559]

In the Matter of Certain Digital Processors and Digital Processing Systems, Components Thereof, and Products Containing Same; Notice of Commission Decision To Review-In-Part the Presiding Administrative Law Judge's Initial Determination Granting Respondents' Motion for Summary Determination of Non-Infringement of U.S. Patent No. 5,021,945

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the initial determination ("ID") of the presiding administrative law judge ("ALJ") issued on September 6, 2006, in the above-captioned investigation under section 337 of the Tariff Act as amended, 19 U.S.C. 1337. Specifically, the Commission has determined to review the issues of (1) claim construction of the limitations "logical processor number" and "added to each instruction," (2) whether there are genuine issues of material fact precluding summary determination, and (3) the ALJ's interpretation of the law concerning the doctrine of equivalents.

FOR FURTHER INFORMATION CONTACT: Christal A. Sheppard, Esq., telephone 202-708-2301, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Copies of all non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol.public>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on January 17, 2006, based on a complaint filed on behalf of Biax Corporation ("Biax") of Boulder, Colorado. 71 FR 2565 (January 17, 2006). The complaint asserts a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the importation into the United States, sale for importation, or sale within the United States after importation of certain digital processors and digital processing systems, components thereof, and products containing the same by reason of infringement of one or more claims of three U.S. patents including U.S. Patent No. 5,021,945 ("the '945 patent"). 71 FR 2565 (January 17, 2006). The notice of investigation named five respondents but was subsequently amended first to remove and then to add respondents. Currently, the named respondents are: Philips Semiconductor, Inc.; Philips Electronics

North America Corp.; Philips Consumer Electronics B.V.; Philips Semiconductors B.V. (collectively, "Philips"); and 2Wire, Inc. of San Jose, California.

On August 7, 2006, Philips moved for summary determination of non-infringement of the three patents at issue. On August 11, 2006, respondent 2Wire filed a motion to join Philips' motion for summary determination. The Commission investigative attorney ("IA") and Biax opposed the motion for summary determination. On September 6, 2006, the ALJ issued the subject ID granting Philips' motion as to only one of the three asserted patents, the '945 patent. Philips filed a petition for review on September 13, 2006. On September 14, 2006, the IA filed a request to file his petition for review one day past the due date. Neither Biax nor Philips opposes this request. On September 20, 2006, Philips filed combined oppositions to Biax's and the IA's petitions. On September 21, 2006, Biax filed a supplement to its petition for review. On September 28, 2006, respondents opposed the supplement. The Commission's rules do not provide for additional filings unless requested by the Commission. 19 CFR 210.43(d)(2). Therefore, we have not considered the supplement or the response. Whether the additional filings should be admitted into the record is an evidentiary matter that we leave, in the first instance, to the ALJ.

The Commission, having examined the petitions for review, the responses thereto, and the relevant portions of the record has determined to review the following issues: (1) Claim construction of the limitations "logical processor number" and "added to each instruction," (2) whether there are genuine issues of material fact precluding summary determination, and (3) the ALJ's interpretation of the law concerning the doctrine of equivalents. The Commission has also granted the IA's request to file his petition out of time.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.43 and 210.45(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.43 and 210.45(c)).

Issued: October 10, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-17131 Filed 10-13-06; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE**Bureau of Alcohol, Tobacco, Firearms and Explosives**

[OMB Number 1140-0087]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: eForm 6 Access Request.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed 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 15, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kevin Boydston, Chief, Firearms and Explosives Imports Branch, 244 Needy Road, Martinsburg, WV 25405.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Identification of Explosive Materials.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5013.3 Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. *Abstract:* Respondents must complete the eForm 6 Access Request form in order to receive a user ID and password to obtain access to ATF's eForm 6 System. The information is used by the Government to verify the identity of the end users prior to issuing passwords.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 500 respondents will complete a 18 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 150 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 11, 2006.

Lynn Bryant,

Department Clearance Officer, Department of Justice.

[FR Doc. E6-17145 Filed 10-13-06; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF JUSTICE**Bureau of Alcohol, Tobacco, Firearms, and Explosives**

[OMB Number 1140-0006]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application and Permit for Importation of Firearms, Ammunition and Implements of War.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the

following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 163, pages 49476-49477 on August 23, 2006, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 15, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 6, Part II (5330.3B). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* **Primary:** Individuals or households. **Other:** Business or other for-profit, Federal Government, State, Local, or Tribal Government. **Abstract:** The information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. The information is used to secure authorization to import such articles. The form is used by persons who are members of the United States Armed Forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 9,000 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 4,500 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6-17146 Filed 10-13-06; 8:45 am]

BILLING CODE 4810-FY-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140-0043]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: National Tracing Center Trace Request and Obliterated Serial Number Trace Request.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request

to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 162, pages 48942-48943 on August 22, 2006, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 15, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* National Tracing Center Trace Request and Obliterated Serial Number Trace Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 3312.1 and ATF F 3312.2. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* **Primary:** Federal Government. **Other:** State, Local, or Tribal Government. **Abstract:** The forms are used by the Federal, State, Local, and International law enforcement community to request that ATF trace firearms used, or suspected to have been used, in crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 112,123 respondents, who will complete either form within approximately 6 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 22,425 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: October 10, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6-17147 Filed 10-13-06; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Compact Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 27 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a

cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from Federal and State agencies to serve on the Compact Council. The Compact Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index System.

Matters for discussion are expected to include:

(1) Adam Walsh Child Protection and Safety Act of 2006.

(2) Policy Change When Applicants are Physically Incapable of Providing Fingerprints.

(3) Strategy for Increasing State Ratification of the National Crime Prevention and Privacy Compact.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Compact Council or wishing to address this session of the Compact Council should notify Mr. Todd C. Commodore at (304) 625-2803, at least 24 hours prior to the start of the session. The notification should contain the requestor's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topics to be addressed and the time needed for the presentation. Requesters will ordinarily be allowed up to 15 minutes to present a topic.

Dates and Times: The Compact Council will meet in open session from 9 a.m. until 5 p.m., on November 7-8, 2006.

ADDRESSES: The meeting will take place at the Sheraton Oklahoma City Hotel, One North Broadway, Oklahoma City, Oklahoma, telephone (405) 235-2780.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mr. Todd C. Commodore, FBI Compact Officer, Compact Council Office, Module B3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306-0148, telephone (304) 625-2803, facsimile (304) 625-2539.

Dated: September 28, 2006.

David Cuthbertson,

Section Chief, Programs Development Section, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 06-8672 Filed 10-13-06; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

October 10, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, telephone: 202-395-7316/fax: 202-395-6974 (these are not toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension without change of currently approved collection.

Title: The Secretary of Labor's Opportunity, Exemplary Voluntary Effort (EVE), and Exemplary Public Interest Contribution (EPIC) Awards.

OMB Number: 1215-0201.

Frequency: Annually.

Type of Response: Reporting.
Affected Public: Private Sector: Business and other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 39.

Estimated Number of Annual Responses: 39.

Estimated Average Response Time: 114 hours.

Estimated Total Annual Burden Hours: 4,460.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$0.

Description: The Office of Federal Contract Compliance Programs (OFCCP) is responsible for the administration of the Secretary of Labor's Opportunity Award, Exemplary Voluntary Effort (EVE), and Exemplary Public Interest Contribution (EPIC) Awards. These Awards shall be presented annually to Federal contractors and non-profit organizations whose activities support the mission of the OFCCP. This information collection will be utilized in an effort to select recipients for the Secretary of Labor's Opportunity, EVE, and EPIC Awards.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E6-17122 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-23-P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

October 9, 2006.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, telephone: 202-395-7316 / fax: 202-395-6974 (these are

not toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Notice of Special Enrollment Rights under Group Health Plans.

OMB Number: 1210-0101.

Frequency: On occasion.

Type of Response: Third party disclosure.

Affected Public: Private Sector: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 2,493,046.

Number of Annual Responses: 8,568,282.

Total Burden Hours: 1.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$77,115.

Description: Section 734 of the Employee Retirement Income Security Act (ERISA), which was added by the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191, Aug. 21, 1996) (HIPAA), gives the Secretary of Labor, in coordination with the Secretary of Health and Human Services (HHS) and the Secretary of the Treasury, (collectively, the Departments) the authority to promulgate necessary or appropriate regulations to carry out the provisions of Part 7 of ERISA (the HIPAA provisions). Among other things, the HIPAA provisions limit the extent to which group health plans and their health insurance issuers can restrict health coverage based on pre-existing

conditions for individuals who previously had health coverage. Section 701(f) of ERISA also provides special enrollment rights to individuals who have previously declined health coverage offered to them to enroll in health coverage upon the occurrence of specified events, including when they lose other coverage, when employer contributions to the cost of other coverage cease, and when they marry, have a child or adopt a child ("special enrollment events"). Plans and issuers are required to provide for 30-day special enrollment periods following any of these events during which individuals who are eligible but not enrolled have a right to enroll without being denied enrollment or having to wait for a late enrollment opportunity (often called "open enrollment").

The Departments issued Interim Final Rules for Health Insurance Portability for Group Health Plans on April 8, 1997 (67 FR 16894), and Final Regulations for Health Coverage Portability for Group Health Plans and Group Health Insurance Issuers under HIPAA Titles I & IV on December 30, 2004 (69 FR 78720). The implementing regulations require plans and their issuers to provide all employees a notice describing the special enrollment rights at or before the time the employees are initially offered the opportunity to enroll in the plan, whether or not they enroll. The Departments believe that the special enrollment notice is necessary to ensure that employees understand their enrollment options and will be able to exercise their rights during any 30-day enrollment period following a special enrollment event. The final regulations provide detailed sample language describing special enrollment rights for use in the notice. The sample language is expected to reduce costs for group health plans since it eliminates the need for plans to develop their own language.

Under the HIPAA provisions, a group health plan may require, as a pre-condition to having a special enrollment right to enroll in group health coverage after losing eligibility under other coverage, that an employee or beneficiary who declines coverage provide the plan a written statement declaring whether he or she is declining coverage because of having other coverage. Failure to provide such a written statement can then be treated as eliminating the individual's later right to special enrollment upon losing eligibility for such other coverage. The implementing regulations further establish that the right to special enrollment can be denied in such circumstances only if employees are given notice of the requirement for a written statement and

the consequences of failing to provide the written statement, at the time an employee declines enrollment. As part of the special enrollment notice, it must be given at or before the time the employee is initially offered the opportunity to enroll.

This information collection request (ICR) covers the requirement in the implementing regulations under section 701(f) for a special enrollment notice.

This information collection implements the disclosure obligation of a plan to inform all employees, at or before the time they are initially offered the opportunity to enroll in the plan, of the plan's special enrollment rules. The regulations require plans and their issuers to provide all employees with a notice describing their special enrollment rights, whether or not they enroll. This provision is necessary to make sure that employees are informed of their special enrollment rights before they take any action that may affect those rights, so that they will be able to aware of and able to exercise their rights within any 30-day enrollment period following a special enrollment event. Absent the notice requirement, there is a risk that employees will not know in advance that they have special enrollment rights and will not be able to take timely action to enroll in group health coverage following a special enrollment event.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Notice of Pre-Existing Condition Exclusion Under Group Health Plans.

OMB Number: 1210-0102.

Frequency: On occasion.

Type of Response: Third party disclosure.

Affected Public: Private Sector: Business or other for-profit and Not-for-profit institutions.

Number of Respondents: 747,914.

Number of Annual Responses: 3,832,337.

Total Burden Hours: 5,714.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$1,120,709.

Description: Section 734 of the Employee Retirement Income Security Act (ERISA), which was added by the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191, Aug. 21, 1996) (HIPAA), gives the Secretary of Labor, in coordination with the Secretary of Health and Human Services (HHS) and the Secretary of the Treasury, (collectively, the Departments) the authority to

promulgate necessary or appropriate regulations to carry out the provisions of Part 7 of ERISA (the HIPAA provisions).

The portability provisions of Part 7 limit the extent to which group health plans and their health insurance issuers can restrict health coverage based on pre-existing conditions for individuals who previously had health coverage and make it easier for such individuals to continue their health coverage when they change jobs by limiting the ability of group health plans and health insurance issuers to exclude coverage based on a pre-existing condition. The provisions limit all pre-existing condition exclusion periods to twelve months (or eighteen months for certain individuals who enroll late in the plan). Further, a group health plan must reduce the twelve- or eighteen-month exclusion period by the length of an individual's previous "continuous health coverage." Continuous health coverage, in this context, means health coverage without any significant breaks in coverage. A significant break in coverage is any period without coverage that lasts for 63 days or more. Following a significant break in coverage, an individual is not entitled to any credit for prior coverage to reduce a preexisting condition exclusion period.

The Departments issued Interim Final Rules for Health Insurance Portability for Group Health Plans on April 8, 1997 (67 FR 16894), and Final Regulations for Health Coverage Portability for Group Health Plans and Group Health Insurance Issuers under HIPAA Titles I & IV on December 30, 2004 (69 FR 78720). See 29 CFR 2590.701-1 through 701-7. These regulations impose certain information collection and other requirements mandated by portability provisions enacted in Section 701 of HIPAA.

In order to offset burdens on plans and issuers, the regulations require participants to demonstrate their prior creditable coverage in some circumstances. In order to help balance the burdens shifted to the participants, the regulations provide the following protections relating to providing prior creditable coverage and preexisting condition exclusions:

General Notice

Plans and issuers that impose preexisting condition exclusion periods must give employees eligible for coverage, as part of any enrollment application, a general notice that describes the plan's preexisting condition exclusion, including that the plan will reduce the maximum exclusion period by the length of an employee's prior creditable coverage. If

there are no such enrollment materials, the notice must be provided as soon after a request for enrollment as is reasonably possible. The final regulation includes sample language for the general notice. See 29 CFR 2590.701-3(c). This language is likely to reduce the cost of providing the notice.

Plans that use the alternative method of crediting coverage provided in the regulations must disclose their use of that method at the time of enrollment and describe how it operates. They must also explain that a participant has a right to establish prior creditable coverage through a certificate or other means and to request a certificate of prior coverage from a prior plan or issuer. Finally, plans or issuers must offer to assist the participant in obtaining a certificate from prior plans or issuers, if necessary. See 29 CFR 2590.701-4(c)(4).

Individual Notice

Before a plan or issuer may impose a preexisting condition exclusion on a particular participant or dependent, it must give the individual written notice describing the length of the preexisting condition exclusion that will be imposed and the length of offsetting prior coverage the plan has recognized (individual notice). The individual notice must also describe the basis for the plan's decision regarding prior creditable coverage, an explanation of the individual's right to submit additional evidence of creditable coverage, and any appeal procedure established by the plan or issuer. The notice need not identify any medical conditions that could be subject to the exclusion.

The general notice and the individual notice both protect individuals by informing them of their Part 7 rights, enabling them to take any necessary corrective action, exercise their rights, and to understand the plan's provisions and how they plan to his or her personal situation.

The information collections covered by this ICR are mandated third party disclosures of information by group health plans and issuers to individuals eligible for group health coverage and/or participants in such plans against whom preexisting condition exclusions may be imposed. The information is necessary to enable individuals to understand and exercise their rights under Part 7 of ERISA. No information is required to be provided to the government under these regulations.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Establishing Creditable Coverage under Group Health Plans.

OMB Number: 1210-0103.

Frequency: On occasion.

Type of Response: Third party disclosure.

Affected Public: Private Sector: Business or other for-profit and Not-for-profit institutions.

Number of Respondents: 2,493,046.

Number of Annual Responses: 16,250,284.

Total Burden Hours: 75,306.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$11,456,011.

Description: Section 734 of the Employee Retirement Income Security Act (ERISA), which was added by the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191, Aug. 21, 1996) (HIPAA), provides that the Secretary of Labor, in coordination with the Secretary of Health and Human Services (HHS) and the Secretary of the Treasury, (collectively, the Departments) may promulgate such regulations (including interim final rules) as may be necessary or appropriate to carry out the provisions of Part 7 of ERISA (the HIPAA provisions). In addition, section 701(e)(3) of ERISA, added by HIPAA (with parallel provisions added to the Public Health Service Act (PHSA) and the Internal Revenue Code (the Code)), requires that the Secretary of Labor issue rules to ensure that group health plans, health insurance issuers, and other specified entities provide certain required disclosures to individuals regarding their health care coverage in order to prevent adverse effects on the individual's subsequent health coverage. These required disclosures include individual certifications of prior health coverage (certificates) and, upon the request of a plan that counts or "credits" prior health coverage in determining subsequent coverage for specific categories of benefits, additional information about coverage under these categories of benefits (called the "alternative method" of crediting coverage).

In order to effectuate these and other purposes, the Department issued Interim Final Rules for Health Insurance Portability for Group Health Plans on April 8, 1997 (62 FR 16894), and Final Regulations for Health Coverage Portability for Group Health Plans and Group Health Insurance Issuers under HIPAA Titles I & IV on December 30, 2004 (69 FR 78720) (final HIPAA portability regulations). The HIPAA portability provisions limit the extent to

which group health plans and their health insurance issuers can restrict health coverage based on preexisting conditions for individuals that were previously covered by health coverage. The provisions limit all preexisting condition exclusion periods to twelve months, or eighteen months for certain individuals who enroll in the plan after their initial opportunity to enroll. Further, the twelve- or eighteen-month exclusion period must be reduced by the length of an individual's prior continuous health coverage, as reflected in certificates or demonstrated through other means. "Continuous health coverage" means coverage that did not have any significant breaks in coverage. A significant break in coverage, for this purpose, is defined as a period of 63 days or more. Following a significant break in coverage, prior health coverage is no longer "creditable," that is, entitled to be taken as a credit to reduce a plan's preexisting condition exclusion period.

Section 701(e) of ERISA requires group health plans and health insurance issuers to provide certificates of an individual's prior health coverage on termination of coverage, at the time an individual would lose coverage in the absence of continuation coverage ("COBRA"), and when an individual loses coverage after COBRA coverage ceases. Certificates must also be provided on request and may be requested at any time while an individual is covered by the plan and for 24 months after coverage ceases. (Certificates must also be provided by other entities that provide creditable coverage, like Medicare and Medicaid.) The certificate must show the number of days of creditable coverage earned by the individual and also include an educational statement describing the Part 7 rights. The regulations provide model language for the educational statement. In addition, the regulations require a group health plan to establish written procedures governing the process for requesting a certificate.

The individual who receives a certificate may present it to his or her new group health plan in order to receive credit for prior health coverage under the new plan. The certificate provides assurance to the individual's new group health plan or its health insurance issuer that the individual had health coverage for a certain number of days that should be credited toward reducing any preexisting condition exclusion periods under the new health plan.

Because participants may be required to demonstrate creditable coverage and the status of their dependents in some

circumstances in order to assert rights under Part 7, the regulations provide the following protections:

(a) If an individual is required to demonstrate dependent status, the plan or issuer is required to treat the individual as having furnished a certificate showing the dependent status if the individual attests to such dependency and the period of such status, and the individual cooperates with the plan's or issuer's efforts to verify the dependent status. (See 29 CFR 2590.701-5(a)(5)(ii).)

(b) A plan is required to treat an individual as having furnished a certificate if the individual attests to the period of creditable coverage, presents relevant corroborating evidence, and cooperates with the plan's efforts to verify the individual's coverage. (See 29 CFR 2590.701-5(c).)

This ICR also covers an information collection requirement imposed under the regulations in connection with the alternative method of crediting coverage established by the regulations. The regulations permit a plan to adopt, as its method of crediting prior health coverage, provisions that impose different preexisting condition exclusion periods with respect to different categories of benefits, depending on prior coverage in that category. In such a case, the regulations require former plans to provide additional information upon request to new plans in order to establish an individual's length of prior creditable coverage within that category of benefits.

This information collection implements statutorily prescribed requirements necessary to permit individuals to establish prior creditable health coverage and to enable group health plans and issuers to verify creditable coverage. Group health plans and the plans' health insurance issuers are required to issue certificates as proof of prior creditable health coverage. These certificates assist individuals in retaining prior health coverage upon changes in employment or in other circumstances when coverage ends and enable plans. A model certificate, which includes a model educational statement ("Statement of HIPAA Rights"), appears in the Final Regulations. The model certificate contains the minimum information required for such a certification. The information is used by participants in group health plans and by group health plans and health coverage issuers to establish an

individual's rights to group health coverage under Part 7.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E6-17123 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,820]

Airfoil Technologies International—Ohio; A Subsidiary Of Airfoil Technologies International, LLC; Mentor, OH; Notice of Revised Determination on Reconsideration

By letter dated August 25, 2006, the United Steel Workers, Local 1-826 (the Union), requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm. The determination for Airfoil Technologies International—Ohio, A Subsidiary of Airfoil Technologies International, LLC, Mentor, Ohio was issued on August 7, 2006. The Notice of determination was published in the **Federal Register** on August 28, 2006 (71 FR 50947). The denial was issued based on the Department's finding that the subject workers do not produce an article as required by the Trade Act of 1974. Workers are engaged in the remanufacturing of jet engine components as a service to commercial airlines, original equipment manufacturers and the military.

In the request for reconsideration, the Union alleges that the subject workers are engaged in the production of an article and that production shifted from the subject facility to an affiliated facility in Singapore.

During the reconsideration investigation, the subject company provided new information that the subject workers do not service jet engine components only; rather, the subject workers repair and remanufacture fan blades. The new information also revealed that a meaningful portion of the fan blades are produced for sale rather than repair. Workers who repair fan blades are not separately identifiable from workers who remanufacture fan blades.

The subject company also confirmed that the subject facility began closure procedures in 2006 and that fan blade production is shifting to an affiliated

facility in Singapore (the production shift will be completed in early 2007).

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the reconsideration investigation, I conclude that there was a shift in production from the workers firm or subdivision to Singapore of articles that are like or directly competitive with those produced by the subject firm or appropriate subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of Airfoil Technologies International—Ohio, A Subsidiary of Airfoil Technologies International, LLC, Mentor, Ohio who became totally or partially

separated from employment on or after July 21, 2005 through two years from the date of certification are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974 and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of October 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17117 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 (“the Act”) and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether

the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 26, 2006.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 26, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 3rd day of October, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX [TAA PETITIONS INSTITUTED BETWEEN 9/25/06 AND 9/29/06]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60130	AJS Controls, Inc. (Comp)	Sidney, NY	09/25/06	09/21/06
60131	New United Motor Manufacturing, Inc. (NUMMI) (State)	Fremont, CA	09/25/06	09/22/06
60132	Mansfield Plumbing Products (Wkrs)	Perrysville, OH	09/25/06	09/25/06
60133	Rosboro (Union)	Springfield, OR	09/26/06	09/23/06
60134	Alatech Healthcare, LLC (Comp)	Slocomb, AL	09/26/06	09/25/06
60135	Rothtec Engraving Corp. (Wkrs)	Charlotte, NC	09/26/06	09/24/06
60136	Owens-Illinois (Union)	Godfrey, IL	09/26/06	09/25/06
60137	Mudd Jeans, LLC (Wkrs)	New York, NY	09/26/06	09/11/06
60138	Quaker Fabric Corporation of Fall River (State)	Fall River, MA	09/26/06	09/25/06
60139	Pechiney Plastic Packaging, Inc. (Comp)	San Leandro, CA	09/26/06	09/18/06
60140	TAP Holdings, LLC (Comp)	Los Angeles, CA	09/26/06	09/19/06
60141	ESCO Company, Limited Partnership (Comp)	Muskegon, MI	09/26/06	09/19/06
60142	PPG Industries (Wkrs)	Lexington, NC	09/26/06	09/22/06
60143	Bloomsburg Mills (Comp)	New York, NY	09/26/06	09/25/06
60144	Ethan Allen Operations, Inc. (Comp)	Atoka, OK	09/26/06	09/08/06
60145	Schutt Sports (Wkrs)	Salem, IL	09/26/06	09/20/06
60146	Jabil (Comp)	Auburn Hills, MI	09/26/06	09/26/06
60147	Superior Lumber Company (Wkrs)	Glendale, OR	09/27/06	09/25/06
60148	Monadnock Specialty Coatings, LLC (Comp)	Binghamton, NY	09/27/06	09/26/06
60149	Bloch Washington (Comp)	Seattle, WA	09/27/06	09/21/06
60150	Celestica (Comp)	Westminster, CO	09/27/06	09/25/06
60151	CEP Products (Comp)	Lapeer, MI	09/27/06	09/15/06
60152	Aimsworth Engineered (State)	Grand Rapids, MN	09/27/06	09/27/06
60153	Saint-Gobain Containers (Wkrs)	El Monte, CA	09/27/06	09/19/06
60154	Lucas Ford Lincoln Mercury, Inc (State)	Southold, NY	09/27/06	09/27/06
60155	Technicolor Video Cassette of Michigan (Wkrs)	Livonia, MI	09/27/06	09/23/06
60156	Thermo Electron RMSI (Comp)	Santa Fe, NM	09/27/06	09/27/06

APPENDIX [TAA PETITIONS INSTITUTED BETWEEN 9/25/06 AND 9/29/06]—Continued

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60157	Visteon (Union)	Connersville, IN	09/27/06	09/22/06
60158	Geneva Steel LLC (COMP)	Lindon, UT	09/28/06	09/27/06
60159	Brown International Corporation (Wkrs)	Covina, CA	09/28/06	09/27/06
60160	Multi-Fineline Electronix, Inc. (Wkrs)	Anaheim, CA	09/28/06	09/28/06
60161	Wright and Lato Inc. (Union)	E. Orange, NJ	09/28/06	09/26/06
60162	Ison Transport Inc. (COMP)	Ontonagon, MI	09/29/06	09/28/06
60163	Gallman Wire Technologies (COMP)	Gallman, MS	09/29/06	09/28/06
60164	ZF Boge Elastametal (COMP)	Paris, IL	09/29/06	09/28/06
60165	Emerson Climate Technologies (COMP)	Murfreesboro, TN	09/29/06	09/18/06
60166	Up North Industries (Union)	Petoskey, MI	09/29/06	09/28/06
60167	Andrew Massachusetts (AFMA) (COMP)	Amesbury, MA	09/29/06	09/26/06
60168	Korn Industries Inc. (COMP)	Sumter, SC	09/29/06	09/20/06
60169	Cognex Corporation (COMP)	Natick, MA	09/29/06	09/19/06
60170	AET Films Incorporated (Union)	Covington, VA	09/29/06	09/29/06
60171	Nisource/Columbia Gas Transmission (Wkrs)	Charleston, WV	09/29/06	09/27/06

[FR Doc. E6-17114 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) number and alternative trade adjustment assistance (ATAA) by (TA-W) number issued during the period of September 25 through September 29, 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

- A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;
- B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and
- C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers'

separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

- A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;
- B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and
- C. One of the following must be satisfied:
 1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;
 2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or
 3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm

have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact

date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA-W-59,910; *Allied Poly Industries, Hayward, CA: August 3, 2005.*

TA-W-59,971; *Mar/Tron, Inc., Flippin, AR: August 28, 2005.*

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA-W-59,965; *Jones Apparel of Texas II, Ltd., El Paso, TX: August 21, 2005.*

TA-W-59,966; *ABB, Inc., Lewisburg, WV: August 28, 2005.*

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-58,937; *Rexam, Inc., d//b/a Precise Technology/PGH Tool Shop, North Versailles, PA: February 28, 2005.*

TA-W-59,183; *Gehl Company, West Bend, WI: April 10, 2005.*

TA-W-59,953; *Corinthian, Inc., Cutting Department, Corinth, MS: August 24, 2005.*

TA-W-60,010; *Placement Pros. Maverick Technology and Manpower, Working On-Site at Maytag Corporation, Herrin, IL: September 5, 2005.*

TA-W-60,027; *West Point Home, Bed Products Division, Opelika, AL: September 7, 2005.*

TA-W-60,037; *Ethan Allen Operations, Inc., Spruce Pine, NC: September 7, 2005.*

TA-W-60,070; *RAD Electronics, Inc., dba RAD Technologies, Hillsboro, OR: September 12, 2005.*

TA-W-60,098; *AME Corporation, Towaco, NJ: September 18, 2005.*

TA-W-59,903; *Acore Door Company, Coldwater, MI: August 14, 2005.*

TA-W-59,921; *Weyerhaeuser Co., Specialty Packaging Facility, Valley View, OH: August 10, 2005.*

TA-W-59,922; *Hiatt Metal Products Co., Muncie, IN: August 17, 2005.*

TA-W-59,928; *Diversco Integrated Services, Bed Products Division,*

Calhoun Falls, Plnat, Calhoun Falls, SC: August 16, 2005.

TA-W-59,957; *Jonette Jewelry Co., East Providence, RI: August 25, 2005.*

TA-W-60,001; *Butts Manufacturing Co., Garden Grove, CA: August 24, 2005.*

TA-W-60,007; *GKN, Sinter Metals Division, Salem, IN: September 1, 2005.*

TA-W-60,025; *Modine Manufacturing, Automotive Div., Logansport, IN: September 6, 2005.*

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-59,866; *Troy Design, Inc., On-Site at General Motors Corp., Engineering Design Interiors Surfacing, Warren, MI: August 4, 2005.*

TA-W-60,013; *Hutchinson FTS, Byrdstown, TN: September 5, 2005.*

TA-W-60,017; *Kimberly-Clark Corporation, Kimberly-Clark Global Sales, Inc., Neenah, WI: September 6, 2005.*

TA-W-60,018; *Great Western Malting, Vancouver, WA: September 6, 2005.*

TA-W-60,038; *Carbone Kirkwood, LLC, Farmville, VA: August 31, 2005.*

TA-W-60,039; *Hamilton Sundstrand, Actuation Systems Enterprise Group, Rockford, IL: August 31, 2005.*

TA-W-60,065; *Suntron Midwest Operations, Div. of Suntron Corp., Olathe, KS: September 12, 2005.*

TA-W-60,093; *Carhartt, Inc., Madisonville Cutting Division, Madisonville, KY: September 14, 2005.*

TA-W-59,945; *Sheaffer Manufacturing Co., LLC, A Subdivision of BIC Corporation, Fort Madison, IA: September 24, 2006.*

TA-W-60,036; *Crane Plumbing, Monroe, GA: September 7, 2005.*

TA-W-60,040; *ADVO, Graphics Print Department, Milwaukee, WI: September 1, 2005.*

TA-W-60,099; *Metaldyne Corp., Greenville, NC: September 11, 2005.*

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-59,856; *Kimball International, Kimball Electronics Group Division, Jasper, IN: August 2, 2005.*

TA-W-59,967; *GAC Chemical Corp., General Alum New England, Searsport, ME: August 16, 2005.*

TA-W-60,020; *Venus Accessories, Ltd., Long Island City, NY: August 14, 2005.*

TA-W-60,044; *Degussa Engineered Carbons, LP, Belpre, OH: September 1, 2005.*

TA-W-60,063; *Fisher and Company, A Division of Fisher Corp., Troy, MI: September 5, 2005.*

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of section 246 has not been met. Workers at the firm are 50 years of age or older.

TA-W-59,910; *Allied Poly Industries, Hayward, CA: August 3, 2005.*

TA-W-59,966; *ABB, Inc., Lewisburg, WV.*

The Department as determined that criterion (2) of section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA-W-59,971; *Mar/Tron, Inc., Flippin, AR.*

TA-W-59,965; *Jones Apparel of Texas II, Ltd., El Paso, TX.*

The Department as determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Since the workers of the firm are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA-W-59,942; *Distinctive Designs Furniture USA, Fiber Department, Granite Falls, NC.*

TA-W-59,972; *National Apparel, San Francisco, CA.*

TA-W-60,073; Leviton Manufacturing Co., Southern Devices Division, Morganton, NC.

TA-W-60,083; QPM Aerospace, Portland, OR.

TA-W-60,094; Goodyear Tire and Rubber Co., Union City Plant, Union City, TN.

TA-W-60,101; Siemon Company (The), Watertown, CT.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met. TA-W-60,011; OSRAM Sylvania, Inc., Central Falls, RI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA-W-59,744; AGX Corporation, New York, NY.

TA-W-59,818; Sun Chemical Corp., North American Inks (NAI), Winston-Salem, NC.

TA-W-59,876; Glide Lumber, LLC, Glide, OR.

TA-W-59,898; Fenton Art Glass Company, Williamstown, WV.

TA-W-59,940; Liberty Throwing Co., Inc., Kingston, PA.

TA-W-60,071; J and S Industries LLC, Livonia, MI.

TA-W-60,074; Rebtex Company, Inc., East Greenwich, RI.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country under a preferential trade agreement, or there has been or is likely to be an increase in imports).

None.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-59,995; Bess Manufacturing Co., Bensalem, PA.

TA-W-59,998; Mortgage Guaranty Insurance Corp., Concord, CA.

TA-W-60,087; Wachovia Bank, Disbursement Operating Services, Philadelphia, PA.

The investigation revealed that criteria of section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were

issued from September 25 through September 29, 2006. Copies of these determinations are available for inspection in Room C-5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 5, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17102 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,463]

Ash Grove Cement Company Rivergate Lime Plant; Portland, OR; Notice of Negative Determination on Reconsideration

On August 7, 2006, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Ash Grove Cement Company, Rivergate Lime Plant, Portland, Oregon (subject firm). The Department's Notice of Affirmative Determination was published in the **Federal Register** on September 26, 2006 (71 FR 56169). Although the petition states that the subject firm produces calcium oxide, the investigation revealed that ground limestone, ground dolomite, and calcium hydroxide are produced as well as calcium oxide. The subject workers are not separately identifiable by product line. The petitioner (the subject firm) requested that the Department consider TA-W-59,463 as both a primary and secondary petition.

The petition for the workers of the subject firm was denied because there was no shift of production and the "contributed importantly" group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through increased imports by either the subject firm or its customers of those articles produced by the subject worker group.

The investigation revealed that although calcium oxide production had ceased, there was no shift of production from the subject facility to a country that is party to a free trade agreement with the United States, or a country that is named as a beneficiary under the

Andean Trade Preference Act, the African Growth and Opportunity Act or the Caribbean Basin Economic Recovery Act. The investigation also revealed that neither the subject firm nor its customers increased imports of calcium oxide during the relevant period.

Because the determination did not state whether the subject worker group is eligible for TAA as workers of a secondarily-affected firm, the Department issued the Notice of Affirmative Determination Regarding Application for Reconsideration.

In the initial petition, the company official asserts that the subject firm supplied calcium oxide to Oregon Steel Mills (TAA certified on May 9, 2003; TA-W-50,706). In the request for reconsideration, the company official stated that "calcium oxide produced at the plant is sold for a variety of end uses but is primarily used in the iron and steel making industry." The company official also asserts that the closure of Oregon Steel Mills, Portland, Oregon in May 2003 (one of two major customers) and the subject firm's inability to secure another high-volume customer led to the closure of the calcium oxide line and the workers' separations.

During the reconsideration investigation, the company official confirmed that calcium oxide production ceased at the subject facility on May 31, 2006. Calcium oxide constituted a meaningful portion of production at the subject facility.

During the reconsideration investigation, the company official provided new information that indicated that there are several major declining calcium oxide customers during the relevant period. In response to this new information, the Department carefully reviewed previously-submitted information and conducted a new survey to determine whether these customers had increased import purchases of calcium oxide while declining their purchases from the subject firm during the relevant period. The reconsideration investigation revealed no increased imports of calcium oxide by these customers.

For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must have customers that are TAA certified during the relevant period and the TAA certified customers must represent a significant portion of subject firm's business during the relevant period. In addition, the subject firm would have to produce a component part of the product that was the basis for the customers' certification.

Because the TAA certification for Oregon Steel Mills, Portland, Oregon

had expired on May 9, 2005, that customer cannot be a basis for certification of the subject firm as an affected secondary upstream supplier. Further, since Oregon Steel Mills, Portland, Oregon ceased production in May 2003, that customer cannot have represented a significant portion of the subject firm's business during the relevant period. As such, the subject workers are not eligible for TAA under secondary impact.

In order for the Department to issue a certification of eligibility to apply for ATAA, the subject worker group must be certified eligible to apply for TAA. Since the subject workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Ash Grove Cement Company, Rivergate Lime Plant, Portland, Oregon.

Signed at Washington, DC, this 28th day of September, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17105 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,833]

The Baxter Corporation; Shelby, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 27, 2006, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on August 28, 2006 and published in the **Federal Register** on September 21, 2006 (71 FR 55217).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake

in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of the Baxter Corporation, Shelby, North Carolina engaged in production of jacquard textile harnesses was denied because the "contributed importantly" group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met, nor was there a shift in production from that firm to a foreign country in 2004, 2005 or January through July 2006. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no imports of jacquard textile harnesses during the relevant period. The subject firm did not import jacquard textile harnesses nor did it shift production to a foreign country during the relevant period.

The petitioner states that the affected workers lost their jobs as a direct result of a loss of customers in the textile industry. The petitioner alleges that major declining customers of the subject firm were negatively impacted by increased imports of various textiles, thus they decreased their purchases of jacquard textile harnesses from the Baxter Corporation, Shelby, North Carolina. The petitioner also states that several of the subject firm's customers were certified eligible for TAA based on an increase in imports of various textile products. The petitioner concludes that because sales and production of jacquard textile harnesses at the subject firm have been negatively impacted by increasing presence of foreign imports of textile products on the market, workers of the subject firm should be eligible for TAA.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of jacquard textile harnesses. The survey revealed that the declining customers did not increase their imports of jacquard textile harnesses during the relevant period.

Imports of textiles cannot be considered like or directly competitive with jacquard textile harnesses produced by Baxter Corporation, Shelby, North Carolina and imports of textiles are not relevant in this investigation.

The fact that subject firm's customers shifted their production abroad or were import impacted is relevant to this

investigation if determining whether workers of the subject firm are eligible for TAA based on the secondary upstream supplier of trade certified primary firm impact. For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must produce a component part of the article that was the basis for the customers' TAA certification.

In this case, however, the subject firm does not act as an upstream supplier, because jacquard textile harnesses do not form a component part of various fabrics, yarn and other textile products. Thus the subject firm workers are not eligible under secondary impact.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, day 5th of October, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17118 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-60,006]

Bosch Sumter Plant; Automotive Technology Chassis Division Including Onsite Leased Workers From Huffmaster Company, IH Services and Olsten Staffing; Sumter, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 22, 2006, applicable to workers of Bosch Sumter Plant, Automotive Technology Chassis Division, including onsite leased workers from Huffmaster Company, IH Services, and Olsten Staffing, Sumter, South Carolina. The notice was published in the **Federal Register** on October 2, 2006 (71 FR 58011-58012).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce automotive brakes and brake boosters.

The review shows that this same worker group was certified eligible to apply for adjustment assistance under petition number TA-W-55,227, which expired on August 2, 2006.

In order to avoid an overlap in worker group coverage, the Department is amending the current certification for workers of Bosch Sumter Plant, Automotive Technology Chassis Division, including onsite leased workers from Huffmaster Company, IH Services, and Olsten Staffing, Sumter, South Carolina, to change the impact date from September 22, 2005 to August 3, 2006.

The amended notice applicable to TA-W-60,006 is hereby issued as follows:

All workers of Bosch Sumter Plant, Automotive Technology Chassis Division, Sumter, South Carolina, including onsite leased workers of Huffmaster Company, IH Services and Olsten Staffing, who became totally or partially separated from employment on or after August 3, 2006 through September 22, 2008, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 4th day of October, 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17110 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,183]

Gehl Company; West Bend, WI; Notice of Revised Determination on Reconsideration

On August 2, 2006, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on August 11, 2006 (71 FR 46243-46244).

The previous investigation initiated on April 11, 2006, resulted in a negative determination issued on June 7, 2006, based on the finding that imports of agricultural implements did not

contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on July 14, 2006 (71 FR 40160).

To support the request for reconsideration, the company official supplied additional information. Upon further review of the initial investigation and contact with subject firm's company official, the Department conducted additional survey of subject firm's declining customers. The survey revealed that subject firm customers increased their reliance on import purchases of agricultural implements during the relevant period. The investigation also revealed that sales and production at the subject firm declined during the relevant time period.

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Gehl Company, West Bend, Wisconsin, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gehl Company, West Bend, Wisconsin, who became totally or partially separated from employment on or after April 10, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 29th day of September 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17104 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,947 and TA-W-59,947A]

Hamrick's Incorporated, Plants 1 and 2, Including On-Site Leased Workers From Phillips Staffing, Gaffney, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 14, 2006, applicable to workers of Hamrick's Incorporated, Plant 1 and Plant 2 located in Gaffney, South Carolina, including on-site leased workers from Phillips Staffing. The notice was published in the **Federal Register** on September 26, 2006 (71 FR 56170-56172).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of sweaters, pants and skirts. The workers at Plant 1 cut the fabric while the workers at Plant 2 sew the fabric. The review shows that all workers of Hamrick Industries, Inc., Gaffney, South Carolina were certified eligible to apply for adjustment assistance under petition number TA-W-55,139, which expired on July 7, 2006.

In order to avoid an overlap in worker group coverage, the Department is amending the current certification for workers of Hamrick's Incorporated, Plant 1 and Plant 2 located in Gaffney, South Carolina, to change the impact date from August 1, 2005 to July 8, 2006.

The amended notice applicable to TA-W-59,497 and TA-W-59,497A is hereby issued as follows:

All workers of Hamrick's Incorporated, Plant 1, Gaffney, South Carolina (TA-W-59,947), Hamrick's Incorporated, Plant 2, Gaffney, South Carolina (TA-W-59,947),

including on-site workers of Phillips Staffing, who became totally separated from employment on or after July 8, 2006 through September 14, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of October, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17119 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,904]

Hartz & Company, Inc., HL Hartz and Sons, Frederick, Maryland; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 11, 2006, applicable to workers of Hartz & Company, Inc., Frederick, Maryland. The notice was published in the **Federal Register** on September 26, 2006 (71 FR 56170-56171).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produced men's and women's suits and bottoms.

The review of the file showed that wages for some of the workers of the subject firm were reported to the Unemployment Insurance (UI) tax account for HL Hartz and Sons.

The intent of the certification is to provide coverage to all workers of the subject firm impacted by increased imports. Accordingly, the Department is amending the certification to include workers of the firm whose wages are paid by HL Hartz and Sons.

The amended notice applicable to TA-W-59,904 is hereby issued as follows:

All workers of Hartz & Company, Inc., HL Hartz and Sons, Frederick, Maryland, who became totally or partially separated from employment on or after August 14, 2005

through September 11, 2008, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 4th day of October 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17109 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-60,059]

Hoover Precision Products, Inc., Washington, IN; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Hoover Precision Products, Inc., Washington, Indiana. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA-W-60,059; Hoover Precision Products, Inc., Washington, Indiana, (October 3, 2006).

Signed at Washington, DC, this 10th day of October 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17120 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,745]

Jantzen, LLC; A Subsidiary of Perry Ellis International; Seneca, SC; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at

Jantzen, LLC, A Subsidiary of Perry Ellis International, Seneca, South Carolina. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA-W-59,745; Jantzen, LLC, A Subsidiary of Perry Ellis, International, Seneca, South Carolina, (September 26, 2006).

Signed at Washington, DC, this 29th day of September 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17107 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-58,503]

Kentucky Derby Hosiery Company Currently Known as Gildan Inc., Plant 8; Hillsville, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 20, 2006, applicable to all workers of Kentucky Derby Hosiery Company, Plant 8 located in Hillsville, Virginia. The notice was published in the **Federal Register** on February 3, 2006 (71 FR 5894-5896).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce knit socks.

New information provided by the State and a company official confirm that the subject firm was sold to Gildan Inc. in July 2006 and workers continued to produce knit socks. Furthermore, worker separations have occurred under the new ownership. Accordingly, the Department is amending the certification to reflect the successor firm's name.

It is the Department's intent to provide coverage to all workers of the subject firm adversely affected by increased imports.

The amended notice applicable to TA-W-58,503 is hereby issued as follows:

All workers of Kentucky Derby Hosiery Company, currently known as Gildan Inc., Plant 8, Hillsville, Virginia, who became totally or partially separated from employment on or after December 12, 2004, through January 20, 2008, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of October, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17115 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-60,121]

Leggett & Platt, Inc.; Branch 0003 & 3609; Ennis, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 21, 2006 in response to a worker petition filed by a company official on behalf of workers of Leggett & Platt, Inc., Branch 0003 & 3609, Ennis, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 10th day of October 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17121 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,749]

Mileage Plus, Inc.; Tucson Call Center, a Wholly Owned Subsidiary of United Airlines Tucson, AZ; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C), an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at

Mileage Plus, Inc., Tucson Call Center, a Wholly Owned Subsidiary of United Airlines, Tucson, Arizona. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA-W-59,749; Mileage Plus, Inc., Tucson Call Center, a Wholly Owned Subsidiary of United Airlines, Tucson, Arizona, (October 5, 2006).

Signed at Washington, DC this 10th day of October 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17116 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-60,072]

MJJ Brilliant Jewelers Inc.; New York, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 13, 2006 in response to a petition filed on behalf of workers at MJJ Brilliant Jewelers Inc., New York, New York. The subject firm is a jewelry wholesaler and does not manufacture jewelry.

Two of the three petitioning workers were separated well before the impact date of September 12, 2005. Therefore, the petition regarding the investigation has been deemed invalid. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 29th day of September, 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17112 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-60,131]

New United Motor Manufacturing, Inc. Fremont, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 25, 2006 in response to a worker petition filed by the state agency on behalf of workers at New United Motor Manufacturing, Inc., Fremont, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of October, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17113 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,790]

Premier Turbines; Division of Dallas Airmotive, Inc.; Neosho, MO; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Premier Turbines, Division of Dallas Airmotive, Inc., Neosho, Missouri. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA-W-59,790; Premier Turbines, Division of Dallas Airmotive, Inc., Neosho, Missouri, (September 26, 2006).

Signed at Washington, DC, this 29th day of September 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17108 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-58,937]

Rexam, Inc., D/B/A Precise Technology Pgh Tool Shop, North Versailles, PA; Notice of Revised Determination on Reconsideration

On June 14, 2006, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on June 26, 2006 (71 FR 36365).

The previous investigation initiated on March 1, 2006, resulted in a negative determination issued on April 6, 2006, based on the finding that imports of injection molded products did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on April 18, 2006 (71 FR 19900).

To support the request for reconsideration, the petitioner supplied additional information regarding production at the Tool Shop at the subject facility and company imports of like or directly competitive products with those produced at the Tool Shop. Upon further contact with the subject firm's company official, it was revealed that workers employed at the Tool Shop manufactured injection tools and were separately identifiable from other workers at the subject firm.

Having conducted a detailed investigation on reconsideration, it was revealed that the subject firm ceased production of injection tools manufactured by the Tool Shop, while increasing its reliance on imports of injection tools during the relevant time period.

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable.

Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Rexam, Inc., d/b/a Precise Technology, Pgh Tool Shop, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Rexam, Inc., d/b/a Precise Technology, Pgh Tool Shop, engaged in the production of injection tools, who became totally or partially separated from employment on or after February 28, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 28th day of September, 2006.

Elliott S. Kushner

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17103 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-60,054]

Schiffer Dental Care Products Agawam, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 12, 2006 in response to a petition filed by a company official on behalf of workers at Schiffer Dental Care Products, Agawam, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 2nd day of October 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17111 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-59,533]

Yakima Resources, LLC; Yakima, Washington; Notice of Negative Determination on Reconsideration

On September 12, 2006, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Yakima Resources, LLC, Yakima, Washington (the subject firm). The Department's Notice of Affirmative Determination was published in the **Federal Register** on September 21, 2006 (71 FR 55219). Workers produce plywood.

The petition for the workers of the subject firm was denied because there was no shift of production and the "contributed importantly" group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through increased imports by the subject firm or its customers. The investigation revealed neither a shift of production abroad nor an increase in imports of plywood during the relevant period.

In the request for reconsideration, the Western Council of Industrial Workers, United Brotherhood of Carpenters and Joiners of America (the Union) alleged that the Department had failed to investigate increased imports of oriented strand board (OSB), which is like and directly competitive with plywood.

During the reconsideration investigation, the Department asked both the subject firm and the subject firm's sole customer of plywood whether they had increased import purchases of OSB. Both respondents answered in the negative.

In order for the Department to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA), the subject worker group must be certified eligible to apply for Trade Adjustment Assistance (TAA). Since the subject workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Yakima Resources, LLC, Yakima, Washington.

Signed at Washington, DC, this 28th day of September, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6-17106 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR-1218-1008(2006)]

Standard on Ethylene Oxide (EtO); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements contained in its Ethylene Oxide (EtO) Standard (29 CFR 1910.1047). The Standard protects employees from the adverse health effects that may result from occupational exposure to EtO, including carcinogenic, mutagenic, genotoxic, reproductive, neurologic, and sensitization hazards to employees.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by December 15, 2006.

Facsimile and electronic transmission: Your comments must be received by December 15, 2006.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR-1218-0108(2006), by any of the following methods:

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350 (OSHA's TTY number is (877) 899-5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., e.t.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693-1648.

Electronic: You may submit comments through the Internet at <http://ecomments.osha.gov/>. Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB-83-I Form, and attachments), go to OSHA's Web page at <http://www.OSHA.gov>. In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You also may contact Jamaa Hill at the address below to obtain a copy of the ICR. For additional information on submitting comments, please see the "Public Participation" heading in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

Jamaa Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95)(44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is accurate. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The principal paperwork provisions of the EtO Standard require employers to notify employees of their EtO exposures, implement a written compliance program, administer medical examinations, provide examining physicians with specific information, ensure that employees receive a copy of their medical examination results, maintain employees' exposure-monitoring and medical records for specific periods, and provide access to these records by OSHA, the National Institute for Occupational Safety and Health, the

affected employees, and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

OSHA is proposing to decrease the existing burden hour estimate and to extend OMB's approval of the collection of information requirements contained in the EtO Standard. The Agency is requesting a decrease in burden hours for the collection of information contained in the EtO Standard from 43,972 hours to 42,732 hours. This 1,240-hour decrease mainly results from decrease in the number of hospitals (which are major EtO consumers). The agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information collection requirements.

Type of Review: Extension of a currently approved information collection requirement.

Title: Ethylene Oxide Standard (29 CFR 1910.1047).

OMB Number: 1218-0108.

Affected Public: Business or other for-profits.

Number of Respondents: 5,474.

Frequency: On occasion.

Total Responses: 209,256.

Average Time per Response: Time per response ranges from 5 minutes (.08 hour) to provide information to the examining physician to 2 hours for employees to receive medical examinations.

Estimated Total Burden Hours: 42,732.

Estimated Cost (Operation and Maintenance): \$6,595,597.

III. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX

transmission (facsimile), (3) electronically through the OSHA Web page (see the section titled **ADDRESSES** above). Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery, and courier service.

All comments, submissions, and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at <http://www.OSHA.gov>. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions. Electronics copies of this **Federal Register** notice, as well as other relevant documents, are available on OSHA's Web page. Since all submissions become public, private information such as social security numbers should not be submitted.

IV. Authority and Signature

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

Signed at Washington, DC, on October 10, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. 06-8692 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-26-M

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 9 a.m. to 12 p.m., Thursday, November 9, 2006.

PLACE: The offices of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, 130 South Scott Avenue, Tucson, AZ 85701.

STATUS: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

MATTERS TO BE CONSIDERED: (1) A report on the U.S. Institute for Environmental Conflict Resolution; (2) A report from the Udall Center for Studies in Public Policy; (3) A report on the Native Nations Institute; (4) Program Reports; and (5) A report from the Management Committee.

PORTIONS OPEN TO THE PUBLIC: All sessions with the exception of the session listed below.

PORTIONS CLOSED TO THE PUBLIC: Executive session.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 670-5529.

Dated: October 11, 2006.

Christopher L. Helms,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and Federal Register Liaison Officer.

[FR Doc. 06-8725 Filed 10-12-06; 12:05 pm]

BILLING CODE 6820-FN-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 159th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 9, 2006 in Room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting, from 8:30 a.m. to 10:30 a.m. (ending time is approximate), will be open to the public on a space available basis. Following opening remarks and announcements by the Senior Deputy Chairman, there will be two presentations: one on 40 years of NEA support for Media Arts and one on 40 years of NEA support for Theater and Musical Theater. This will be followed by review and voting on applications and guidelines. The meeting will conclude with general discussion.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical

information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY-TDD 202/682-5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682-5570.

Dated: October 5, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. E6-17092 Filed 10-13-06; 8:45 am]

BILLING CODE 7537-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 04000341]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC-133 Authorizing the Use of Site-Specific Derived Concentration Guideline Levels When Determining if Unrestricted Release Criteria Has Been Met for the Defense Logistics Agency, Defense Nuclear Supply Center Depot in Somerville, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT:

Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610-337-5366; fax number 610-337-5393; or by e-mail: drl1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Source Materials License No. STC-133. This license is held by Defense Logistics Agency (DLA or the Licensee) at multiple sites. The site at issue is its Defense National Stockpile Center

located at U.S. Highway Route 206 South in Somerville, New Jersey (the Facility). Issuance of the amendment would authorize the licensee to use site-specific Derived Concentration Guideline Levels (DCGLs) in a later survey of the Facility to determine if the Facility can be released for unrestricted use under the criteria in 10 CFR 20.1402. The use of the site-specific DCGLs requires an exemption to the definition of weighting factors in 10 CFR 20.1003. The Licensee requested this action in a letter dated October 19, 2005. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), part 51 (10 CFR part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The NRC plans to issue the amendment following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's October 19, 2005, license amendment request to use site-specific DCGLs as part of a later request (not yet submitted) to release the Facility for unrestricted use under the criteria in 10 CFR 20.1402. License No. STC-133 was issued on July 23, 1983, pursuant to 10 CFR part 40, and has been amended periodically since that time. This license authorized the Licensee to use unsealed source material for purposes of storage, sampling, repackaging, and transfer.

Based on the approved DCGLs, the Licensee will conduct surveys of the Facility and provide information to the NRC to demonstrate that the Facility meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the approval of site-specific DCGLs through issuance of an exemption to the definition of weighting factors in 10 CFR 20.1003. The licensee needs these site specific DCGL values for later determining if the Facility meets the criteria for unrestricted use. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a timely decision on a proposed license amendment that ensures protection of public health and safety and the environment.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: natural uranium and thorium mixtures.

An amendment specifying the site specific DCGLs is required before the Licensee can use such DCGL values to later demonstrate compliance with unrestricted release criteria. The Licensee conducted site-specific dose modeling using input parameters specific to the Facility and a conservative assumption that all residual radioactivity is in equilibrium. Federal Guidance Report Number 13 was used to modify the dose conversion factors because it is based on an improved, more realistic dosimetry model. The selected critical age group is adults as the expected future use of this facility will be industrial. Based on the type of building, and its proximity to an existing railroad, there is no compelling evidence to indicate that the building will be used for other than industrial activities. The NRC has reviewed the Licensee's methodology and proposed DCGLs and finds that the proposed DCGLs are acceptable for use at the Facility. Federal Guidance Report Number 13, as an updated dosimetry model, uses different weighting factors than is published in 10 CFR part 20. The weighting factors are used to determine effective dose equivalent and total dose equivalent. Therefore, an exemption to the definition of weighting factors in 10 CFR 20.1003 is required to use Federal Guidance Report Number 13. The use of Federal Guidance Report Number 13 for dose modeling and weighting factors is acceptable for this Facility.

Based on its review, the staff has concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. Denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the site specific DCGLs identified by the Licensee are acceptable for use at its Facility. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this EA to the State of New Jersey's Department of Environmental Protection for review on June 21, 2006. On July 20, 2006, the State of New Jersey responded by letter. The State agreed with the conclusions of the EA if the DCGL's are adjusted from the NRC's 25 millirem per year standard to the Department of Environmental Protection's remediation criterion of 15 millirem per year (N.J.A.C. 7:28-12.8(a)). While, 15 millirem per year is the State of New Jersey criterion, for the purpose of NRC consideration of the proposed action, the NRC must implement DCGLs that support the 25 millirem per year standard set forth in 10 CFR 20.1402. The Department of Environmental Protection also requests that the deed restriction referenced on page 2 of the letter dated April 26, 2006, "Defense Logistics Agency, Request for Additional Information Concerning Application for Amendment to License" [ML061220479] be in place before approval of NRC license termination. The NRC found that based on the type of building, railroad distribution, and truck access, there is no compelling evidence to indicate that the building will be used for other than industrial activities. NRC determined that no deed restriction will be necessary should the Licensee pursue its plans to seek the unrestricted use of its Facility.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted.

Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG-1757, "Consolidated NMSS Decommissioning Guidance";
2. Title 10 Code of Federal Regulations, part 20, subpart E, "Radiological Criteria for License Termination";
3. Title 10, Code of Federal Regulations, part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions";
4. Letter dated October 19, 2005, "Amendment to Source Materials License" [Adams Accession No. ML053060017];
5. Letter dated December 29, 2005, "Amendment to Source Material License STC-133—Request to use Commodity Specific DCGLs at Binghamton and Somerville Depots" [ML060040304];
6. Letter dated February 7, 2006, "Amendment to Source Material License STC-133—Request to Use Commodity Specific DCGLs at Binghamton and Somerville Depots" [ML060410319];
7. Letter dated April 26, 2006, "Defense Logistics Agency, Request for Additional Information Concerning Application for Amendment to License" [ML061220479];
8. "Radiological Historical Site Assessment Report, Defense National Stockpile Center, Somerville Depot, Hillsborough, NJ" dated January 2006 [ML060730422];
9. "Radiological Historical Site Assessment Report, Defense National Stockpile Center, Binghamton Depot, Binghamton, NY" dated February 2006 [ML060730408].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. These documents may also be viewed electronically on the public computers

located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region 1, 475 Allendale Road, King of Prussia this 6th day of October 2006.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1.

[FR Doc. E6-17078 Filed 10-13-06; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF MANAGEMENT AND BUDGET

Proposed Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice and request for comments.

SUMMARY: The Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA) can provide strong confidentiality protections for statistical information collections, such as surveys and censuses, as well as for other statistical activities, such as data analysis, modeling, and sample design, that are sponsored or conducted by Federal agencies. The purpose of the proposed CIPSEA implementation guidance is to inform agencies about the requirements for using CIPSEA and clarify the circumstances under which CIPSEA can be used. The Office of Management and Budget (OMB) requests comments on the proposed Implementation Guidance for Title V of the E-Government Act, the Confidential Information Protection and Statistical Efficiency Act of 2002. The complete text of the proposed guidance is available on the OMB Web site at <http://www.whitehouse.gov/omb/inforeg/statpolicy.html>.

Authority: 31 U.S.C. 1104(d); 44 U.S.C. 3504 (specifically (a)(1)(B)(iii) and (v), (e)(1), (3) and (5), and (g)(1)); Pub. L. 107-347 503(a), 44 U.S.C. 3501 note.

DATES: To ensure consideration during the final decision-making process, written comments must be provided to OMB no later than December 15, 2006.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot

guarantee that comments mailed will be received before the comment closing date. Electronic comments may be submitted to: Brian A. Harris-Kojetin at bharrisk@omb.eop.gov. Please provide the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395-7245. Comments may be mailed to Brian Harris-Kojetin, Ph.D., Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., New Executive Office Building, Room 10201, Washington, DC 20503. All comments submitted in response to this notice will be made available to the public, including by posting them on OMB's Web site. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information.

FOR FURTHER INFORMATION CONTACT: Brian Harris-Kojetin, Ph.D., Statistical and Science Policy Office, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10201, 725 17th Street, NW., Washington, DC 20503. Telephone: 202-395-3093.

SUPPLEMENTARY INFORMATION:

Background

Statistics collected and published by the Federal Government constitute a significant portion of the available information about the United States' economy, population, natural resources, environment, and public and private institutions. There are more than 70 Federal agencies or organizational units that carry out statistical activities as their principal mission or in conjunction with other program missions, such as providing services or enforcing regulations. In addition to these 70 agencies, many other Federal agencies or units may collect statistical information to use for specific program needs.

Prior to the enactment CIPSEA, a patchwork of legislative protections governed the confidentiality of data gathered for statistical purposes by the different agencies and units. Some agencies had strong statutory authority to protect the confidentiality of the data they gathered for statistical purposes, while other agencies had weak or no legislative authority to protect confidentiality. In addition, the ability of the designated statistical agencies to share information to improve the

efficiency of the Federal statistical system was limited by statutory constraints affecting those agencies.

By establishing a uniform policy for all Federal statistical collections, this law will reduce public confusion, uncertainty, and concern about the treatment of confidential statistical information by different Federal agencies. By establishing consistent rational principles and processes to buttress confidentiality pledges, the guidance that implements the law will harmonize confidentiality claims and set minimum standards for safeguarding confidential statistical information. Such consistent protection of confidential statistical information will, in turn, reduce the perceived risks of more efficient working relationships among statistical agencies, relationships that can reduce both the cost and reporting burden imposed by statistical programs.

Development and Review

In 2003, OMB and the other members of the Interagency Council on Statistical Policy (ICSP) formed an interagency group to discuss issues that OMB and the agencies anticipated would arise in the implementation of CIPSEA. OMB was particularly interested in understanding the questions and concerns that these statistical agencies had about the new law and how it would affect their activities. OMB also sought to incorporate the best practices of these agencies for handling confidential statistical information.

An initial draft of this implementation guidance was reviewed by the ICSP members, and OMB revised the draft guidance in response to the comments that we received. Based on the use of the law by agencies over the past three years, OMB has also addressed in the proposed guidance specific issues that have arisen, such as nonstatistical agencies' use of CIPSEA.

Issues for Comment

With this notice, OMB requests comments on the proposed Implementation Guidance for Title V of the E-Government Act, the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA). OMB seeks comments from interested parties on all aspects of this proposed guidance. In particular, OMB seeks comments on the appropriate use of CIPSEA by statistical and nonstatistical agencies, and the appropriate wording for CIPSEA and non-CIPSEA pledges. OMB also seeks comments on the necessary elements for contracts and written

agreements for agents covered in Appendix A of the guidance.

Steven D. Aitken,

Acting Administrator, Office of Information and Regulatory Affairs.

[FR Doc. E6-17086 Filed 10-13-06; 8:45 am]

BILLING CODE 3110-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC-27512; 812-12986]

Delaware Management Business Trust, *et al.*; Notice of Application

October 10, 2006.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Delaware Management Business Trust, Optimum Fund Trust, Lincoln Variable Insurance Products Trust (the "Lincoln Trust"), Delaware Group Adviser Funds, Delaware Group Cash Reserve, Delaware Group Equity Funds I, Delaware Group Equity Funds II, Delaware Group Equity Funds III, Delaware Group Equity Funds IV, Delaware Group Equity Funds V, Delaware Group Foundation Funds, Delaware Group Global & International Funds, Delaware Group Government Fund, Delaware Group Income Funds, Delaware Group Limited-Term Government Funds, Delaware Group State Tax-Free Income Trust, Delaware Group Tax Free Fund, Delaware Group Tax Free Money Fund, Delaware Pooled Trust, Delaware VIP Trust, Voyageur Insured Funds, Voyageur Intermediate Tax Free Funds, Delaware Investments Municipal Trust, Voyageur Mutual Funds, Voyageur Mutual Funds II, Voyageur Mutual Funds III and Voyageur Tax Free Funds (each a "Trust" and collectively, the "Trusts") and Delaware Management Company (the "Adviser").

FILING DATES: The application was filed on June 25, 2003 and amended on December 8, 2005 and October 4, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 6, 2006, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington DC, 20549-1090. Applicants, David P. O'Conner, Esq., Delaware Investments, One Commerce Square, 2005 Market Street, Philadelphia, PA, 19103-7094; Colleen E. Tonn, Esq., The Lincoln National Life Insurance Company, 1300 S. Clinton Street, Fort Wayne, IN 46802.

FOR FURTHER INFORMATION CONTACT: John Yoder, Senior Counsel, at (202) 551-6878, or Mary Kay Frech, Branch Chief, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, U.S. Securities and Exchange Commission, 100 F Street NE., Washington DC 20549-0102 (tel. 202-551-5850).

Applicants' Representations

1. Each Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. The Trusts currently offer 101 series (each, a "Fund" and collectively, the "Funds"), each of which has its own investment objectives, restrictions, and policies.¹ The Adviser is registered as

¹ Applicants request that any relief granted pursuant to the application also apply to any existing or future registered open-end management investment company or series thereof that: (i) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser; (ii) uses the "manager of managers" structure described in the application; and (iii) complies with the terms and conditions of the application (included in the term "Funds"). The Trusts are the only existing investment companies that currently intend to rely on the order. If the name of any Fund, at any time, contains the name

an investment adviser under the Investment Advisers Act of 1940 (“Advisers Act”) and serves as investment adviser to the Funds pursuant to an investment advisory agreement with each Trust (each, an “Advisory Agreement”). Each Advisory Agreement has been approved by the shareholders² of each Fund and by such Fund’s board of trustees (the “Board”), including a majority of the trustees who are not “interested persons,” as defined in section 2(a)(19) of the Act, of the Trust (“Independent Trustees”).

2. Under the terms of each Advisory Agreement, the Adviser is authorized to manage the investment of the assets of each Fund. Each Advisory Agreement permits the Adviser to delegate its investment advisory responsibilities to one or more investment advisers (“Sub-Advisers”) pursuant to sub-advisory agreements (each, a “Sub-Advisory Agreement”), subject to approval by the Board. The Adviser monitors and evaluates the Sub-Advisers and recommends to the Board their hiring, retention or termination. The Board, including a majority of the Independent Trustees, will approve each Sub-Advisory Agreement. Each Sub-Adviser is an investment adviser registered under the Advisers Act. The Adviser compensates each Sub-Adviser out of the fees paid to the Adviser under the Advisory Agreement.

3. Applicants request relief to permit the Adviser to enter into and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or the Adviser, other than by reason of serving as a Sub-Adviser to one or more of the Funds (“Affiliated Sub-Adviser”). None of the current Sub-Advisers is an Affiliated Sub-Adviser.

4. Applicants also request an exemption from the various disclosure provisions described below that may require the Funds to disclose the fees paid by the Adviser to the Sub-Advisers. An exemption is requested to permit a Fund to disclose (as both a dollar amount and as a percentage of the Fund’s net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Sub-Advisers; and (b) the aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (“Aggregate Fee

Disclosure”). If a Fund employs an Affiliated Sub-Adviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

Applicants’ Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the company’s outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N-1A is the registration statement used by open-end investment companies. Item 14(a)(3) of Form N-1A requires disclosure of the method and amount of the investment adviser’s compensation.

3. Rule 20a-1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (“1934 Act”). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the “rate of compensation of the investment adviser,” the “aggregate amount of the investment adviser’s fees,” a description of the “terms of the contract to be acted upon,” and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N-SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N-SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-Advisers.

5. Regulation S-X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6-07(2)(a), (b), and (c) of Regulation S-X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent

with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

7. Applicants state that the Funds’ shareholders will rely on the Adviser to select the Sub-Advisers best suited to achieve a Fund’s investment objectives. Applicants assert that, from the perspective of the investor, the role of the Sub-Advisers is comparable to that of individual portfolio managers employed by traditional investment advisory firms. Applicants contend that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary costs and delays on the Funds and may preclude the prompt replacement of a Sub-Adviser when considered advisable by the Board and the Adviser. Applicants note that each Advisory Agreement will remain subject to the shareholder approval requirements of section 15(a) and rule 18f-2.

8. Applicants assert that some Sub-Advisers use a “posted” fee schedule to set their fees. Applicants state that while Sub-Advisers are willing to negotiate fees that are lower than those posted on the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will better enable the Adviser to negotiate lower advisory fees with the Sub-Advisers, the benefits of which would be passed on to the shareholders of the Funds.

Applicants’ Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund’s outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund’s shares to the public.

2. The prospectus for each Fund will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by

of a Sub-Adviser, the name of the Adviser will precede the name of the Sub-Adviser.

² The term “shareholder” includes variable life insurance policy and variable annuity contract owners that are unitholders of any separate account for which a Fund of the Lincoln Trust serves as a funding medium.

the Board) to oversee Sub-Advisers and to recommend their hiring, termination and replacement.

3. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed at the discretion of the then-existing Independent Trustees.

4. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. When a change of Sub-Adviser is proposed for a Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or an Affiliated Sub-Adviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Sub-Adviser, shareholders will be furnished all information about the new Sub-Adviser that would be contained in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Sub-Adviser. The applicable Trust or the Adviser will meet this condition by providing shareholders, within 90 days of the hiring of a new Sub-Adviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act, except as modified to permit Aggregate Fee Disclosure.

7. The Adviser will provide general investment advisory services to the Funds, including overall supervisory responsibility for the general management and investment of each Fund's assets, and, subject to review and approval by the Board, the Adviser will: (i) Set the Fund's overall investment strategies; (ii) Evaluate, select and recommend Sub-Advisers to manage all or part of each Fund's assets; (iii) when appropriate, allocate and reallocate each applicable Fund's assets among multiple Sub-Advisers; (iv) monitor and evaluate the investment performance of the Sub-Advisers; and (v) ensure that the Sub-Advisers comply with each Fund's investment objectives, policies and restrictions, by among other things, implementing procedures reasonably designed to ensure compliance.

8. No trustee or officer of a Trust, or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Sub-Adviser except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

9. Independent legal counsel, as defined in rule 0-1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then existing Independent Trustees.

10. Each Trust will include in its registration statement the Aggregate Fee Disclosure for each Fund.

11. Whenever a Sub-Adviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the Adviser's profitability.

12. The Adviser will provide the Board, no less frequently than quarterly, with information about the Adviser's profitability on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

13. The requested order will expire on the effective date of rule 15a-5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,
Secretary.

[FR Doc. E6-17082 Filed 10-13-06; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27511; 812-12993]

SSgA Funds Management, Inc., et al.; Notice of Application

October 6, 2006.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A) and (B), under sections 6(c) and 17(b) of the Act for an exemption

from sections 17(a)(1) and 17(a)(2) of the Act, and under section 6(c) of the Act to amend a previous order.

Summary of the Application: The order would permit certain management investment companies and unit investment trusts ("UITs") registered under the Act to acquire shares ("Shares") of certain open-end management investment companies and UITs registered under the Act that operate as exchange-traded funds and are outside of the same group of investment companies as the acquiring investment companies. The order also would amend a prior order (the "Prior Order")¹ to permit: (a) Dealers to sell Shares to purchasers in the secondary market unaccompanied by a prospectus when prospectus delivery is not required by the Securities Act of 1933 ("Securities Act"); (b) under certain circumstances, exchange-traded funds that track certain foreign equity securities indexes to pay redemption proceeds more than seven days after the tender of Shares (in large aggregations called "Creation Units") for redemption; and (c) additional exchange-traded funds that track certain foreign equity securities indexes to rely on the Prior Order. Further, the order would add certain representations and terms concerning the operations of exchange-traded funds that track certain foreign equity securities indexes, replace certain conditions, and add a condition, to the Prior Order.

Applicants: SSgA Funds Management, Inc. (the "Adviser"), ALPS Distributors, Inc., and State Street Global Markets, LLC (each, a "Distributor" and together, the "Distributors"), The Select Sector SPDR® Trust ("Select Sector Trust"), streetTRACKS® Series Trust ("Series Trust"), and streetTRACKS® Index Shares Funds ("Index Shares Funds") (each of Select Sector Trust, Series Trust, and Index Shares Funds, a "Trust" and collectively, the "Trusts").

DATES: The application was filed on July 29, 2003 and amended on August 3, 2006. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in the notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

¹ State Street Bank and Trust Company, et al., Investment Company Act Release Nos. 24631 (Sept. 1, 2000) (notice) and 24666 (Sept. 25, 2000) ("Prior Order"), superseding The Select Sector SPDR Trust, et al., Investment Company Act Release Nos. 23492 (Oct. 20, 1998) (notice) and 23534 (Nov. 13, 1998) (order).

a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 31, 2006, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090; Applicants, c/o Scott M. Zoltowski, Esq., State Street Bank and Trust Company, Two Avenue de Lafayette-6th Floor, Boston, Massachusetts 02111.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551-6873, or Michael W. Mundt, Senior Special Counsel, at (202) 551-6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Branch, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-0102 (tel. 202-551-5850).

Applicants' Representations

1. The Trusts are open-end management investment companies registered under the Act, each of which consists of separate series that seek to provide investment results that correspond generally to the price and yield performance or total return of, its specified equity securities index (an "Index") and operate as exchange-traded funds. Index Shares Funds is the only Trust that currently offers series based on Indexes comprised of foreign equity securities ("Foreign Indexes").² The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser to each Trust. ALPS Distributors, Inc., a broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange

² These series, streetTRACKS® Dow Jones STOXX 50 Fund and streetTRACKS® Dow Jones EURO STOXX 50 Fund, currently operate in reliance on an order that is not the Prior Order. If the requested order is granted, those series will operate in reliance on the Prior Order, as amended.

Act") serves as the principal underwriter for each series of Select Sector Trust. State Street Global Markets, LLC, a broker-dealer registered under the Exchange Act, serves as the principal underwriter for each series of Series Trust and Index Shares Funds.

2. Applicants request an exemption under section 12(d)(1)(j) of the Act to permit certain management investment companies and UITs registered under the Act to acquire Shares beyond the limitations in sections 12(d)(1)(A) and (B). Applicants request that the relief apply to (a) each open-end management investment company or UIT registered under the Act that operates as an exchange-traded fund, is currently or subsequently part of the same "group of investment companies" as the Trusts within the meaning of section 12(d)(1)(G)(ii) of the Act, and is advised or sponsored by the Adviser or an entity controlling, controlled by or under common control with the Adviser (such registered management investment companies are referred to as "Open-End ETFs"; such registered UITs are referred to as "UIT ETFs"; Open-End ETFs and UIT ETFs are collectively referred to as "ETFs"),³ as well as any principal underwriter of an Open-End ETF or broker or dealer registered under the Exchange Act ("Broker") selling Shares of an ETF to an Investing Fund (as defined below); and (b) each management investment company or UIT registered under the Act that is not part of the same "group of investment companies" as the ETFs within the meaning of section 12(d)(1)(G)(ii) of the Act and that enters into a participation agreement with an ETF (such management investment companies are referred to as "Investing Management Companies"; such UITs are referred to as "Investing Trusts," and Investing Management Companies and Investing Trusts are collectively referred to as "Investing Funds").⁴ Each Investing Trust will have a sponsor ("Sponsor"). Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act ("Investing Fund Adviser") and may be advised by investment adviser(s) within the meaning of section 2(a)(20)(B) of the Act ("Investing Fund Subadviser"). Any

³ Investing Funds do not include the ETFs. All existing ETFs are open-end management investment companies.

⁴ All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. An Investing Fund may rely on the requested order only to invest in ETFs and not in any other registered investment company.

investment adviser to any Investing Management Company will be registered as an investment adviser under the Advisers Act or exempt from registration. In addition, applicants request relief from sections 17(a)(1) and 17(a)(2) of the Act to permit the ETFs that are or become affiliated persons of an Investing Fund to sell Shares to, and redeem Shares from the Investing Fund.

3. Applicants also request relief under section 6(c) of the Act to amend the Prior Order to: (a) Add exemptions from sections 22(e) and 24(d) of the Act; (b) replace certain conditions and add a new condition, to the Prior Order; (c) add certain terms and representations concerning the creation and redemption of Creation Units of ETFs that track Foreign Indexes ("Foreign ETFs"), as described in the application; (d) permit Foreign ETFs to invest in depositary receipts as component securities and/or alternatives to component securities of the relevant Foreign Index⁵; and (e) permit additional series of Index Shares Funds that would track Foreign Indexes ("New Foreign ETFs"; included in the term "Foreign ETFs")⁶ to rely on the Prior Order. Applicants assert that the New Foreign ETFs will operate in a manner substantially similar to the existing Foreign ETFs and will comply with all of the terms and conditions of the Prior Order, as amended.

Applicants' Legal Analysis

1. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the

⁵ Any depositary receipts held by a Foreign ETF will be negotiable securities that represent ownership of a non-U.S. company's publicly traded stock. Depositary receipts will typically be American depositary receipts, but may include Global depositary receipts, and Euro depositary receipts. The Adviser may include depositary receipts on the list of deposit securities of an ETF when holding the depositary receipt will improve liquidity, tradability, or settlement for a Foreign ETF and may treat the depositary receipt of a component security of the Foreign Index as a component security for purposes of applicants' representations related to the percentage of assets of a Foreign ETF that will be invested in component securities.

⁶ The Foreign Indexes for the New Foreign ETFs are S&P/Citigroup BMI World ex-US Index, S&P/Citigroup BMI EPAC Index, S&P/Citigroup BMI Europe Index, S&P/Citigroup BMI Asia Pacific Index, S&P/Citigroup BMI Emerging Markets Index, S&P/Citigroup BMI Latin America Index, S&P/Citigroup BMI Middle-East & Africa Index, S&P/Citigroup BMI European Emerging Index, S&P/Citigroup BMI Asia Pacific Emerging Index, S&P/Citigroup BMI China Index, S&P/Citigroup BMI World ex-US Cap Range < 2 Billion USD Index, MSCI ACWI ex-US Index, Russell/Nomura PRIME™ Index, Russell/Nomura Small Cap™ Index, Dow Jones Wilshire ex-US Real Estate Securities Index, and Macquarie Global Infrastructure 100 Index.

Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security or transaction, or any class or classes thereof, from any of the provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act.

Section 12(d)(1) of the Act

2. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any broker or dealer registered under the Exchange Act, from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Applicants seek an exemption under section 12(d)(1)(J) to permit the Investing Funds to acquire Shares in an ETF beyond the limits of section 12(d)(1)(A) and Open-end ETFs and any principal underwriter of an Open-end ETF or Broker to sell Shares of Open-end ETFs to the Investing Funds beyond the limits set forth in sections 12(d)(1)(B).

3. Applicants state that the proposed arrangement and conditions will adequately address the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund

structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that neither the Investing Funds nor an Investing Fund Affiliate would be able to exert undue influence over the ETFs.⁷ To limit the control that an Investing Fund may have over an ETF, applicants propose a condition prohibiting the Investing Fund Adviser or Sponsor, any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Adviser or Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor ("Investing Fund Adviser Group") from controlling (individually or in the aggregate) an ETF within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to the Investing Fund Subadviser, any person controlling, controlled by or under common control with the Investing Fund Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Subadviser or any person controlling, controlled by or under common control with the Investing Fund Subadviser ("Investing Fund Subadviser Group"). Applicants propose other conditions to limit the potential for undue influence over the ETFs, including that no Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Open-end ETF or sponsor to a UIT ETF) will cause an ETF to purchase a security in any offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting"). An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund

⁷ An "Investing Fund Affiliate" is an Investing Fund Adviser, Investing Fund Subadviser, Sponsor, promoter, principal underwriter of an Investing Fund, and any person controlling, controlled by, or under common control with any of those entities. An "ETF Affiliate" is the investment adviser(s), promoter, sponsor, and principal underwriter of an ETF, and any person controlling, controlled by, or under common control with any of those entities.

Subadviser, employee or Sponsor of the Investing Fund, or a person which any such officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Subadviser, employee or Sponsor is an affiliated person (except any person whose relationship to the ETF is covered by section 10(f) of the Act is not an Underwriting Affiliate).

5. Applicants do not believe the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged to the Investing Management Company are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Open-end ETF in which the Investing Management Company may invest. In addition, an Investing Fund Adviser or trustee ("Trustee") or Sponsor of an Investing Trust will waive fees otherwise payable to it by the Investing Management Company or Investing Trust, as applicable, in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Open-end ETF under rule 12b-1 under the Act) received from an ETF by the Investing Fund Adviser, Trustee or Sponsor or an affiliated person of the Investing Fund Adviser, Trustee or Sponsor, other than advisory fees paid to the Adviser or its affiliated person by an ETF, in connection with the investment by the Investing Management Company or Investing Trust, as applicable, in the ETF. Applicants state that any sales charges or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds set forth in Conduct Rule 2830 of the NASD.

6. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no ETF may acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act. Applicants also represent that to ensure that Investing Funds comply with the terms and conditions of the requested relief from section 12(d)(1), any Investing Fund that intends to invest in an ETF in reliance on the requested order will be required to enter into a participation agreement between the relevant Trust on behalf of the ETF(s) and the Investing Fund. The participation agreement will require the Investing Fund to adhere to the terms

and conditions of the requested order. The participation agreement also will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in the ETFs and not in any other investment company. The participation agreement will further require any Investing Fund that exceeds the 5% or 10% limitations in sections 12(d)(1)(A)(ii) and (iii) to disclose in its prospectus that it may invest in ETFs, and to disclose, in "plain English," in its prospectus the unique characteristics of the Investing Fund investing in ETFs, including but not limited to the expense structure and any additional expenses of investing in ETFs.

Section 17(a) of the Act

7. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person.

8. Applicants seek relief from section 17(a) to permit an ETF that is an affiliated person of an Investing Fund because the Investing Fund holds 5% or more of the ETF's Shares to sell its Shares to and redeem its Shares from an Investing Fund (and to engage in in-kind transactions in conjunction with those sales and redemptions).⁸

Applicants believe that any proposed transactions directly between ETFs and Investing Funds will be consistent with the policies of each ETF and Investing Fund. The participation agreement will require any Investing Fund that purchases Creation Units directly from an ETF to represent that the purchase of Creation Units from an ETF by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement.⁹

⁸ Applicants acknowledge that receipt of any compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of shares of an ETF or (b) an affiliated person of an ETF, or an affiliated person of such person, for the sale by the ETF of its shares to an Investing Fund is subject to section 17(e) of the Act. The participation agreement also will include this acknowledgment.

⁹ Applicants believe that an Investing Fund will purchase Shares in the secondary market and will not purchase or redeem Creation Units directly from an ETF. Nonetheless, an Investing Fund that owns 5% or more of an ETF could seek to transact in Creation Units directly with an ETF pursuant to the section 17(a) relief requested.

Section 22(e) of the Act

9. Applicants seek to amend the Prior Order to add relief from section 22(e) of the Act. Section 22(e) generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. The principal reason for the requested exemption is that settlement of redemptions for the Foreign ETFs is contingent not only on the settlement cycle of the United States market, but also on currently practicable delivery cycles in local markets for underlying foreign securities held by the Foreign ETFs. Applicants state that local market delivery cycles for transferring certain foreign securities to investors redeeming Creation Units, together with local market holiday schedules, will under certain circumstances require a delivery process in excess of seven calendar days for the Foreign ETFs. Applicants request relief under section 6(c) from section 22(e) in such circumstances to allow the Foreign ETFs to pay redemption proceeds up to 14 calendar days after the tender of a Creation Unit for redemption. At all other times and except as disclosed in the relevant prospectus and/or statement of additional information ("SAI"), applicants expect that each Foreign ETF will be able to deliver redemption proceeds within seven days.¹⁰ With respect to future Foreign ETFs, applicants seek the same relief from section 22(e) only to the extent that circumstances similar to those described in the application exist.

10. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days needed to deliver the proceeds for the relevant Foreign ETF.

Section 24(d) of the Act

11. Applicants seek to amend the Prior Order to add relief from section

¹⁰ Rule 15c6-1 under the Exchange Act requires that most securities transactions be settled within three business days of the trade. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may have under rule 15c6-1.

24(d) of the Act. Section 24(d) provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants request relief under section 6(c) from section 24(d) to permit dealers selling Shares to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.¹¹

12. Applicants state that Shares are bought and sold in the secondary market in the same manner as closed-end fund shares. Applicants note that transactions in closed-end fund shares are not subject to section 24(d), and thus closed-end fund shares are sold in the secondary market without a prospectus. Applicants contend that Shares likewise merit a reduction in the unnecessary compliance costs and regulatory burdens resulting from the imposition of the prospectus delivery obligations in the secondary market. Because Shares will be listed on the American Stock Exchange, the New York Stock Exchange or another national securities exchange as defined in section 2(a)(26) of the Act (each, a "Stock Exchange"), prospective investors will have access to information about the product over and above what is normally available about an open-end security. Applicants state that information regarding market price and volume is available on a real time basis throughout the day on brokers' computer screens and other electronic services. The previous day's price and volume information is published daily in the financial section of newspapers.

¹¹ Applicants state that they are not seeking relief from the prospectus delivery requirement for non-secondary market transactions, such as when an investor purchases Shares from the relevant Trust or an underwriter. Applicants state that the prospectus will caution broker-dealers and others purchasing Creation Units that some activities on their part, depending on the circumstances, may result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the relevant Distributor, breaks them down into the constituent Shares and sells them directly to its customers, or if it chooses to couple the creation of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. The prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The prospectus also will state that dealers who are not "underwriters" but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with Shares that are part of an "unsold allotment" within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

In addition, the ETFs' websites will include a downloadable form of the prospectus for each ETF and additional quantitative information that is updated on a daily basis, including daily trading volume, closing price, the net asset value ("NAV") for each ETF and information about the premiums and discounts at which the Shares have traded.

13. Applicants will arrange for broker-dealers selling Shares in the secondary market to provide purchasers with a product description ("Product Description") that describes, in plain English, the relevant Trust and the Shares it issues. Applicants state that a Product Description is not intended to substitute for a full prospectus. Applicants state that the Product Description will be tailored to meet the information needs of investors purchasing Shares in the secondary market.

Conditions to Prior Order

14. Applicants also seek to amend the Prior Order by replacing existing conditions 2, 5, and 6 to the Prior Order and adding a new condition. Existing condition 2 to the Prior Order currently provides that each ETF's prospectus will clearly disclose that, for purposes of the Act, shares are issued by the ETF and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act. In light of the requested order to permit Investing Funds to invest in ETFs in excess of the limits of section 12(d)(1), applicants wish to replace this condition in the Prior Order with condition 13, as stated below.

15. Existing condition 5 to the Prior Order provides that the website for each Trust, which will be publicly available at no charge, will contain the following information, on a per Share basis, for each ETF: (a) the prior business day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

16. Existing condition 6 to the Prior Order provides that the prospectus and annual report for each ETF will also include: (a) The information listed in existing condition 5(b), (i) in the case of the prospectus, for the most recently completed year (and the most recently completed quarter or quarters as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and

(b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the ETFs): (i) The cumulative total return and the average annual total return based on NAV and market price, and (ii) the cumulative total return of the relevant Index.

17. Conditions 14 and 15, as stated below, would replace conditions 5 and 6 to the Prior Order, respectively. Under the new conditions, each ETF would use the mid-point of the bid/ask spread at the time of calculation of its NAV (the "Bid/Ask Price") instead of the Shares' closing price for certain aspects of the data presentation required by the conditions.¹²

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief from sections 12(d)(1)(A) and (B) will be subject to the following conditions:

1. The members of the Investing Fund Adviser Group will not control (individually or in the aggregate) an ETF within the meaning of section 2(a)(9) of the Act. The members of an Investing Fund Subadviser Group will not control (individually or in the aggregate) an ETF within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an ETF, the Investing Fund Adviser Group or the Investing Fund Subadviser Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of an ETF, it will vote its shares of the ETF in the same proportion as the vote of all other holders of the ETF's shares. This condition does not apply to the Investing Fund Subadviser Group with respect to an ETF for which the Investing Fund Subadviser or a person controlling, controlled by, or under common control with the Investing Fund Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Open-end ETF) or as the sponsor (in the case of a UIT ETF).

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in an ETF to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the ETF or an ETF Affiliate.

3. The board of directors or trustees of an Investing Management Company,

including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to assure that the Investing Fund Adviser and any Investing Fund Subadviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from an ETF or an ETF Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the securities of an ETF exceeds the limits in section 12(d)(1)(A)(i) of the Act, the board of directors/trustees of an Open-end ETF, including a majority of the disinterested board members, will determine that any consideration paid by an Open-end ETF to an Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Open-end ETF; (ii) is within the range of consideration that the Open-end ETF would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Open-end ETF and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Adviser, or Trustee or Sponsor of an Investing Trust, will waive fees otherwise payable to it by the Investing Management Company or Investing Trust, as applicable, in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Open-end ETF under rule 12b-1 under the Act) received from an ETF by the Investing Fund Adviser, Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, Trustee or Sponsor, or its affiliated person by the ETF, in connection with the investment by the Investing Management Company or Investing Trust, as applicable, in the ETF. Any Investing Fund Subadviser will waive fees otherwise payable to the Investing Fund Subadviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from an ETF by the Investing Fund Subadviser, or an affiliated person of the Investing Fund Subadviser, other than any advisory fees paid to the Investing Fund Subadviser

¹² The Bid/Ask Price of an ETF is determined using the highest bid and the lowest offer on the Stock Exchange as of the time of the calculation of such ETF's NAV. The records relating to Bid/Ask Prices will be retained by the ETFs and their service providers.

or its affiliated person by the ETF, in connection with any investment by the Investing Management Company in the ETF made at the direction of the Investing Fund Subadviser. In the event that the Investing Fund Subadviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Open-end ETF or sponsor to a UIT ETF) will cause an ETF to purchase a security in any Affiliated Underwriting.

7. The board of an Open-end ETF, including a majority of the disinterested board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Open-end ETF in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Open-end ETF exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The board of the Open-end ETF will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Open-end ETF. The board of the Open-end ETF will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Open-end ETF; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Open-ETF in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The board of the Open-end ETF will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

8. Each Open-end ETF will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two

years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Open-end ETF exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the board of the Open-end ETF were made.

9. Before investing in an ETF in excess of the limit in section 12(d)(1)(A), each Investing Fund and the ETF will execute an agreement stating, without limitation, that their boards of directors or trustees and their investment adviser(s), or their sponsors or trustees, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Open-end ETF in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Open-end ETF of the investment. At such time, the Investing Fund will also transmit to the Open-end ETF a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Open-end ETF of any changes to the list of the names as soon as reasonably practicable after a change occurs. The ETF and the Investing Fund will maintain and preserve a copy of the order, the agreement, and, in the case of an Open-end ETF, the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Open-end ETF in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Conduct Rule 2830 of the NASD.

12. No ETF will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

Applicants agree that conditions 2, 5 and 6 to the Prior Order, respectively, will be replaced with the following conditions:

13. Each ETF's prospectus and Product Description will clearly disclose that, for purposes of the Act, Shares are issued by the ETF, which is a registered investment company, and the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in an ETF beyond the limits of section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into an agreement with the ETF regarding the terms of the investment.

14. The Web site for each ETF, which is and will be publicly accessible at no charge, will contain the following information, on a per Share basis, for each ETF: (a) The prior business day's NAV and the Bid/Ask Price, and a calculation of the premium or discount of the Bid/Ask Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each ETF will state that the Web site for the ETF has information about the premiums and discounts at which the ETF's Shares have traded.

15. The prospectus and annual report for each ETF will also include: (a) Data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, (i) in the case of the prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the ETF): (i) The cumulative total return and the average annual total return based on NAV and Bid/Ask Price, and (ii) the cumulative total return of the relevant Index.

Applicants agree to add the following condition to the Prior Order:

16. Before an ETF may rely on the order, the Commission will have approved, pursuant to rule 19b-4 under the Exchange Act, a Stock Exchange rule

requiring Stock Exchange members and member organizations effecting transactions in Shares of such ETF to deliver a Product Description to purchasers of Shares.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-17060 Filed 10-13-06; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of October 16, 2006:

An Open Meeting will be held on Wednesday, October 18, 2006 at 10 a.m. in Room L-002, the Auditorium.

The subject matter of the Open Meeting scheduled for Wednesday, October 18, 2006, will be:

The Commission will consider whether to adopt amendments to the best-price rule for issuer and third-party tender offers under the Securities Exchange Act of 1934. The amendments would clarify that the best-price rule applies only with respect to the consideration offered and paid for securities tendered in a tender offer and should not apply to consideration offered and paid according to employment compensation, severance or other employee benefit arrangements entered into with security holders of the issuer or subject company.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: October 11, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06-8718 Filed 10-12-06; 10:55 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54580; File No. SR-ISE-2006-40]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to the Establishment of the Second Market

October 6, 2006.

I. Introduction

On July 5, 2006, the International Securities Exchange, LLC (f/k/a the International Securities Exchange, Inc.) ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposal to establish a "Second Market" for the listing and trading of low-volume option classes. On August 16, 2006, ISE filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on August 29, 2006.⁴ The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The ISE proposes to adopt rules for the listing and trading of low-volume option classes that qualify for listing under existing Exchange standards in a "Second Market." Historically, the Exchange has elected to refrain from trading many option classes that qualify for trading on the ISE, but are characterized by low average daily trading volumes ("ADVs") on the other option exchanges.

A. Listing in the Second Market

Under the proposal, the Exchange would be able to list in the Second Market equity option classes (excluding options on exchange traded funds) that trade on other option exchange(s) that are characterized by an ADV below 500 contracts over the previous six-month period. The proposed rules would allow the Exchange to list equity option classes with an ADV of over 1,500 contracts only in the existing market (the "First Market"), and would trade such classes pursuant to existing ISE

rules. The Exchange would be able to list option classes with an ADV between 500 and 1,500 contracts initially in either market. Starting one year after the Exchange initiates trading in the Second Market, the Exchange would review the market in which option classes are listed every three months, and option classes would be moved from the First to the Second Market when their ADV in the prior six-month period falls below 300 contracts, and moved from the Second to the First Market when their ADV in the prior six-month period exceeds 750 contracts.

B. Participation as Market Makers in the Second Market

Under the proposal, all members approved to operate ISE market maker memberships would be eligible to be Competitive Market Makers in the Second Market ("SMCMMs"). In addition, members that are only approved as Electronic Access Members ("EAMs") may also register as SMCMMs.⁵ Only Primary Market Makers in the First Market may be Primary Market Makers in the Second Market ("SMPMMs").

As in the First Market, a primary market maker would be appointed for each class traded in the Second Market. SMPMMs would be subject to all the same obligations in their appointed options as Primary Market Makers in the First Market, including, among other things, entering continuous quotations in each series of every option class to which they are appointed and satisfying requirements related to the Plan for Creating and Operating an Intermarket Option Linkage. Similar to Primary Market Makers in the First Market, SMPMMs would be permitted to execute no more than 10% of their volume in Second Market option classes to which they are not assigned.

For purposes of existing Exchange rules relating to market maker obligations, SMCMMs will be considered "appointed" to all option classes listed in the Second Market and will be able to choose whether to make markets in any option class listed in the Second Market on a daily basis. Unlike Competitive Market Makers in the First Market, SMCMMs would not be required to enter continuous quotations in a minimum number or percentage of assigned option classes. An SMCMM will be required to continuously quote

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original filing in its entirety.

⁴ See Securities Exchange Act Release No. 54340 (August 21, 2006), 71 FR 51240.

⁵ Under the proposed rules, members that are only EAMs that want to become SMCMMs would be required to complete the same market maker application and meet the same standards that are applied to Competitive Market Makers under the Exchange's existing rules. Members that are only EAMs are not eligible to be SMPMMs.

all of the series of any options class in which it chooses to make a market. If an SMCMM chooses to make markets in one or more options classes in the Second Market, it must participate in the opening rotation and make markets and enter into any resulting transactions on a continuous basis in all series of the options class until the close of trading that day. SMCMMs may not initiate quoting in an options class intraday. In addition, an SMCMM would undertake all the obligations that a Competitive Market Maker in the First Market assumes in appointed option classes for any option class(es) in which the SMCMM elects to make a market on a given day. SMCMMs will be permitted to execute no more than 25% of their volume in Second Market option classes in which they are not contemporaneously making markets.

C. Proposed Fees in the Second Market

The Exchange proposes several changes to its fee schedule to accommodate introduction of the Second Market as follows: (1) Members would be charged an execution fee of \$.05 per contract for public customer orders; (2) a \$.10 per contract surcharge would be applied to transactions executed by market makers that do not own or lease an ISE market maker membership (*i.e.*, EAMs that make markets in the Second Market); (3) market makers would be excluded from the \$.065 per contract payment for order flow fee for Second Market options; (4) all market makers in the Second Market would be charged a \$2,000 per month access fee (there would be no additional access fee for EAMs to send orders to the Second Market); and (5) firms that are only market makers in the Second Market (*i.e.*, EAMs that make markets in the Second Market) would be charged the same \$5,000 annual regulatory fee paid by Competitive Market Makers in the First Market.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁶ and, in particular, the requirements of Section 6 of the Act.⁷ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which

requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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.

The Commission believes that the ISE proposed market maker obligations for SMPMMs and SMCMMs are consistent with the Act. Market Makers are accorded certain benefits under the securities laws and ISE rules. The Commission believes the obligations of Market Makers in the Second Market justify these benefits.

The Commission also believes that the proposal is consistent with Section 6(b)(4) of the Act,⁹ which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities. The Exchange currently assesses no execution fee for public customer order, but proposes to assess a \$.05 per contract execution fee for public customer orders executed in the Second Market. The Commission believes that this assessment is reasonable. The proposed rule change also appears to be reasonably designed to avoid duplicative charges to market makers already assessed certain fees, such as transaction and regulatory fees. The surcharge for Second Market transactions and the market maker regulatory fee will apply only to SMCMMs that are not also Market Makers in the First Market.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (File No. SR-ISE-2006-40), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris,
Secretary.

[FR Doc. E6-17083 Filed 10-13-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54583; File No. SR-NASDAQ-2006-021]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto to Modify Certain of Nasdaq's Corporate Governance Standards, Including the Definition of Independent Director

October 6, 2006.

On July 28, 2006, The NASDAQ Stock Market LLC ("Nasdaq" or "the Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Nasdaq Rules 4200(a)(15), IM-4200, and 4350, which pertain to Nasdaq's corporate governance standards for listed companies. On August 7, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 28, 2006.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change, as amended.

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,⁴ and, in particular, Section 6(b)(5) of the Act.⁵ The Commission believes that the proposed rule change would provide clarity and guidance to listed companies, particularly with respect to the determination of whether a director is independent. In particular, the proposed rule change would preclude a finding of independence if a director accepts any compensation from the company or its affiliates in excess of \$60,000 during the prescribed time period.⁶ This proposed change would

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54333 (August 18, 2006), 71 FR 50955 ("Notice").

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

⁶ Under current Nasdaq Rule 4200(a)(15)(B), a director of a listed company would not be considered independent if the director or a family member of the director has accepted more than \$60,000 in payments from the company or its parent or subsidiary during the time period set forth in the rule. The proposed rule change would amend the rule to refer to compensation in excess of

⁶ In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

align the Nasdaq rule with a corresponding rule of the New York Stock Exchange LLC (“NYSE”) relating to corporate governance standards of listed issuers.⁷ The proposal also would revise various other provisions of Nasdaq’s corporate governance standards, including by amending several provisions to conform more closely with the NYSE’s corporate governance standards for its listed issuers.⁸

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR–NASDAQ–2006–021), as amended, be, and hereby is, approved.¹⁰

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jill M. Peterson

Assistant Secretary.

[FR Doc. E6–17080 Filed 10–13–06; 8:45 am]

BILLING CODE 8011–01–P

\$60,000 from the company, rather than payments. Nasdaq believes that, based on its experience, a revised rule based on compensation rather than payments more directly bears upon a director’s independence.

⁷ See Section 303A.02(b)(ii) of the NYSE Listed Company Manual. Proposed changes to Nasdaq’s IM–4200 would provide examples of non-compensatory payments, such as interest related to banking services, insurance proceeds, and non-preferential loans from financial institutions. At the same time, the proposed changes to IM–4200 would make clear that payments made by the company for the benefit of the director—such as political contributions to the campaign of a director or a family member and loans to a director or family member that are on terms not generally available to the public—could be considered indirect compensation so as to preclude a finding that the director was independent.

⁸ See Notice, *supra* note 3. These other changes relate to: status of independent directors who served as interim officers for a maximum one-year period; the definition of “non-executive employee;” inclusion of parent and subsidiary within the meaning of “company;” and an exception in Nasdaq’s standards relating to audit committees for certain issuers that have a listed parent, consistent with a similar exception contained in Rule 10A–3 under the Act, 17 CFR 240.10A–3.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ Nasdaq advised that it will implement the proposed rule change immediately upon approval by the Commission. Nasdaq represented that, to facilitate the transition to the new rules, any director that would be considered independent under the existing rules prior to the rule change, but that no longer would be considered independent under the new rules, would be permitted to continue to serve on the issuer’s Board of Directors as an independent director until no later than 90 days after the approval of this rule filing. The Commission notes that this transition period does not affect an issuer’s obligation to comply with the requirements of Rule 10A–3 under the Act relating to audit committees.

¹¹ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54581; File No. SR–NASDAQ–2006–039]

Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Reporting Required When Nasdaq Lists the Security of an Affiliate

October 6, 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 28, 2006, the NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b–4(f)(6) thereunder,⁴ Nasdaq has designated this proposal as “non-controversial,” which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq is proposing a proposed rule change to modify the reporting required when Nasdaq lists the security of an affiliate. The text of the proposed rule change is available on Nasdaq’s Web site (<http://www.nasdaq.com>), at Nasdaq’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to revise Rule 4370 to file on a quarterly basis, rather than on a monthly basis, the report detailing Nasdaq’s monitoring of (1) the Nasdaq Affiliate’s compliance with the provisions of Rule 4200, 4300 and 4400 Series (which include quantitative and qualitative listing requirements) and (2) the trading of the Affiliate Security, including summaries of all related surveillance alerts, complaints, regulatory referrals, busted or adjusted trades, investigations, examinations, formal and informal disciplinary actions, exception reports and trading data.

The proposed rule change is similar to a recent New York Stock Exchange rule filing.⁵ Additionally, Nasdaq notes that providing these reports on a quarterly rather than monthly basis will not affect the compliance monitoring done by Nasdaq and NASD, but will make the reporting less burdensome.⁶ Further, by adopting a quarterly reporting cycle, the reports will be more closely aligned with the issuer’s financial reporting cycle and NASD’s review and surveillance cycle.

In addition, the proposed rule change would permit Nasdaq to file a report with the Commission within five business days of providing notice to the Nasdaq Affiliate of its non-compliance with Nasdaq’s listing requirements rather than at the same time that Nasdaq notifies the Nasdaq Affiliate. This proposed change is also similar to language in the recent New York Stock Exchange rule filing referenced above.

Finally, the proposed rule change would clarify that the applicable provisions of the Rule 4200, 4300, and 4400 Series that are the subject of Nasdaq’s reports are those related to the listing requirements.

Nasdaq will implement the proposed rule change 30 days after filing.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act⁷ in

⁵ See Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11270 (March 6, 2006) (SR–NYSE–2005–77), adopting NYSE Rule 497.

⁶ The NASD performs regulatory services on behalf of Nasdaq pursuant to a regulatory services contract. Telephone conversation between Jonathan Cayne, Associate General Counsel, Nasdaq, and Rebekah Liu, Special Counsel, Division of Market Regulation, Commission, on October 6, 2006.

⁷ 15 U.S.C. 78f.

general, and with Section 6(b)(5) of the Act⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is filed pursuant to paragraph (A) of Section 19(b)(3) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder. The proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. Nasdaq provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹¹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2006-039 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-NASDAQ-2006-039. 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 Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2006-039 and should be submitted on or before November 6, 2006

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-17081 Filed 10-13-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54566; File No. SR-NASD-2006-066]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Allow Certain Institutional Customers To Elect Not To Receive Account Statements

October 3, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 23, 2006, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On August 17, 2006, NASD filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 2340 to relieve members from the requirement to send quarterly account statements to customer accounts that are carried solely for the purpose of execution on a delivery versus payment and receive versus payment ("DVP/RVP") basis, provided certain conditions are met.⁴ Below is the text of the proposed rule change.⁵ Proposed new language is in *italic*; proposed deletions are in [brackets].⁶

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, NASD proposed additional changes to the text of proposed amended Rule 2340, which are incorporated in the proposed rule text below.

⁴ The proposed rule change is similar to a rule change proposed by the New York Stock Exchange, Inc. (now known as New York Stock Exchange LLC). See Securities Exchange Act Release No. 53826 (May 18, 2006), 71 FR 30211 (May 25, 2006).

⁵ The text includes minor technical changes to proposed paragraph (b)(4) pursuant to a telephone conversation between Shirley Weiss, Associate General Counsel, NASD, and Brice Prince, Special Counsel, Division of Market Regulation, Commission, on October 3, 2006.

⁶ The changes to Rule 2340 proposed in this rule filing are marked to the current version of the rule text as recently amended in SR-NASD-2004-171. See Securities Exchange Act Release No. 54411 (Sept. 7, 2006), 71 FR 54105 (Sept. 13, 2006).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ See 15 U.S.C. 78(b)(3)(C).

¹² 17 CFR 200.30-3(a)(12).

2300. TRANSACTIONS WITH CUSTOMERS

* * * * *

2340. Customer Account Statements

(a) General

(1) *Except as otherwise provided by paragraph (b), [E]each general securities member shall, with a frequency of not less than once every calendar quarter, send a statement of account ("account statement") containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last such statement was sent to the customer.*

(2) No change in text.

(b) *Delivery Versus Payment/Receive Versus Payment (DVP/RVP) Accounts Quarterly account statements need not be sent to a customer pursuant to paragraph (a) of this Rule if:*

(1) *the customer's account is carried solely for the purpose of execution on a DVP/RVP basis;*

(2) *all transactions effected for the account are done on a DVP/RVP basis in conformity with Rule 11860;*

(3) *the account does not show security or money positions at the end of the quarter (provided, however that positions of a temporary nature, such as those arising from fails to receive or deliver, errors, questioned trades, dividend or bond interest entries and other similar transactions, shall not be deemed security or money positions for the purpose of this paragraph (b));*

(4) *the customer consents to the suspension of such statements in writing, and the member maintains such consents in a manner consistent with Rule 3110 and SEC Rule 17a-4;*

(5) *the member undertakes to provide any particular statement or statements to the customer promptly upon request; and*

(6) *the member undertakes to promptly reinstate the delivery of such statements to the customer upon request.*

Nothing in this Rule shall be seen to qualify or condition the obligations of a member under SEC Rule 15c3-2 concerning quarterly notices of free credit balances on statements.

[(b)] (c) No change in text.

[(c)] (d) Definitions

For purposes of this Rule, the following terms will have the stated meanings:

(1)-(5) No change in text.

(6) a "DVP/RVP account" is an arrangement whereby payment for securities purchased is made to the

selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at time of settlement, usually in the form of cash.

[(d)] (e) Exemptions

Pursuant to this Rule 9600 Series, [the Association] NASD may exempt any member from the provisions of this Rule for good cause shown.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In filing the proposed rule change and Amendment No. 1 with the Commission, NASD included statements concerning the purpose of, and basis for, the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Rule 2340 requires any member that conducts a general securities business and also carries customer accounts or holds customer funds or securities, at least once each calendar quarter, to send a statement of account containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the time since the last statement was sent.

In a DVP/RVP arrangement, payment for securities purchased is made to the selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at time of settlement, usually in the form of cash. Because transactions in DVP/RVP accounts (chiefly institutional accounts) are settled directly with the agent on a transaction-by-transaction basis, account statements sent by general securities firms to customers with DVP/RVP accounts generally do not reflect any cash balance or security position at the end of a quarter. Rather than using the information provided in quarterly statements, DVP/RVP customers generally rely on trade runs or customer confirmations issued pursuant to Rule 10b-10 under the Act for transaction-related information.

The proposed rule change to Rule 2340 would relieve members from the obligation to send quarterly statements to customers with DVP/RVP accounts if: (1) The customer's account is carried solely for the purpose of execution on a DVP/RVP basis; (2) all transactions in the account are handled on a DVP/RVP basis in conformity with Rule 11860;⁷ (3) there are no securities or cash positions in the account at the end of the quarter (other than positions of a temporary nature, such as those arising from fails to receive or deliver, errors, questioned trades, dividend or bond interest entries and other similar transactions); (4) the customer consents to the suspension in writing; (5) the member undertakes to provide any particular statement or statements to the customer promptly upon request; and (6) the member undertakes to promptly reinstate the delivery of such statements to the customer upon request. The proposed rule change specifies that Rule 2340 does not qualify or condition the obligations of a member under SEC Rule 15c3-2 concerning quarterly notices of free credit balances on statements. The proposed rule change would also define "DVP/RVP account" for purposes of Rule 2340.⁸

By requiring the customer's affirmative consent, the customer's ability to receive quarterly statements is preserved, and the member is precluded from unilaterally terminating delivery of customer statements. In addition, customers would be able to promptly receive particular account statements upon request, and promptly reinstate the delivery of account statements upon request.

The proposed rule change also includes a technical amendment that would replace the reference to "the Association" in paragraph (e) of Rule 2340 with "NASD," because NASD no longer refers to itself using its full corporate name, "the Association," or "the NASD." Instead, NASD uses "NASD" unless otherwise appropriate for corporate or regulatory reasons.

⁷ Prior to accepting an order in a DVP/RVP account, a member must comply with Rule 11860, which requires, among other things, that the member obtain certain information from the customer, including the name and address of the agent and the account number of the customer on file with the agent.

⁸ Proposed Rule 2340(d)(6) would define a "DVP/RVP account" as "an arrangement whereby payment for securities purchased is made to the selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at time of settlement, usually in the form of cash."

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules must be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change is designed to facilitate transactions in securities and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to transactions in securities by giving members a mechanism to allow certain customers that utilize alternative sources of information to keep track of their trading to opt out of receiving unwanted account statements. NASD also believes that the conditions of the proposed amended rule are designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest by requiring that consents to the suspension of account statements under the amended rule be in writing, and by requiring members to undertake to promptly provide any particular account statement upon request and to promptly reinstate delivery of account statements upon request.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date of the proposed rule change will be 30 days following publication of the *Notice to Members* announcing Commission approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2006-066 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-066. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-066 and should be submitted on or before November 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Nancy M. Morris,
Secretary.

[FR Doc. E6-17064 Filed 10-13-06; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54579; File No. SR-NYSE-2006-30]

Self-Regulatory Organizations; New York Stock Exchange, Inc. (a/k/a New York Stock Exchange LLC); Notice of Filing of Proposed Rule Change and Amendments No. 1 & 2 Thereto Relating to the Treasury Share Exception in NYSE Listed Company Manual Section 312.03, Section 312.04 and Section 703.01(A)

October 5, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 5, 2006, the New York Stock Exchange, LLC (the "Exchange" or "NYSE") 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. On August 11, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.³ On September 25, 2006, the Exchange filed Amendment No. 2 to the proposed rule change.⁴ The Commission

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The substance of Amendment No. 1 was changed in Amendment No. 2. See *infra* note 4. In Amendment No. 1, the Exchange had (1) modified the proposed rule change to state that if a company has executed a binding contract prior to August 15, 2006 with respect to the issuance of common stock, the existing treasury share exception will continue to be available for the transaction; and (2) revised the definition of "market value."

⁴ In Amendment No. 2, which replaced and superseded Amendment No. 1 in its entirety, the Exchange (1) revised the example provided with respect to the proposed definition of "market value" to make it clearer; and (2) amended the transition period proposed so that the existing treasury share exception would continue to be available for companies that have entered into a binding contract with respect to the issuance of common stock prior to the date that is five business days after the Commission publishes notice of the proposed rule change in the **Federal Register**.

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 proposed rule filing reflects amendments to the current NYSE Listed Company Manual shareholder approval requirements for certain transactions. The text of this proposed rule change is available on the Exchange's Web site at [http://apps.nyse.com/commdata/pub19b4.nsf/docs/89637D57B29A9E63852571F40076E765/\\$FILE/NYSE-2006-30%20A-2pdf](http://apps.nyse.com/commdata/pub19b4.nsf/docs/89637D57B29A9E63852571F40076E765/$FILE/NYSE-2006-30%20A-2pdf), at the Exchange's principal office, and in 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 NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 312.03 of the Listed Company Manual has for many years required that companies obtain shareholder approval before issuing stock in certain situations or in significantly large amounts.⁵ The precise terms have changed somewhat over the years, but the rule has historically not been applied to any issuance by a company of shares from the treasury, that is, a reissuance of

⁵ The section provides that shareholder approval is a "prerequisite to listing" additional shares by a listed company in several situations. To paraphrase, they are an issuance of more than 1% of the current outstanding common stock to an insider (an officer or director, or an entity affiliated with an officer or director), more than 5% of the current outstanding to a 5% or greater shareholder or an affiliate thereof, or more than 20% of the current outstanding in any transaction other than a public offering or "bona fide private financing" (as defined in Section 312.04(f)). Approval is also required when an issuance will result in a "change of control of the issuer." These provisions apply in the same way to offerings of securities that are convertible into common stock, and the percentages in each case apply either to outstanding common equity or common voting power. The Commission notes that shareholder approval is also required for equity compensation plans. See NYSE Listed Company Manual Sections 312.03(a) and 303A.08.

shares once issued but then reacquired by the company.

The "treasury shares exception" results from the way the rule is written, making shareholder approval a "prerequisite to listing." The Exchange takes the view that once listed, shares remain listed even if they are repurchased by the company and taken back into "treasury."⁶ Accordingly, when treasury shares are re-issued, we do not require that they be "re-listed." Since no listing application is required, Section 312.03 is not triggered.

Note that prior to 2003, the Exchange's rule requiring shareholder approval of stock option plans resided in Section 312.03 as well, and the treasury share exception was also applied in that context. The rule regarding such plans was significantly revised in 2003, and codified in a different section of the Listed Company Manual, Section 303A.08. At this time, the "treasury share exception" was specifically made unavailable for equity compensation plans, so that shareholder approval would be required regardless of whether a plan was funded in whole or in part through the use of treasury shares.⁷

The treasury share exception has been criticized because it potentially allows companies to store up large reserves of stock against a future issuance of shares in transactions that could significantly dilute existing shareholders without their approval. In light of this criticism, on December 30, 2005, the Exchange solicited comment from listed companies and investors on whether or not the treasury stock exception should be eliminated. We received 19 comment letters or e-mails in response. Fourteen of the commenters, primarily institutional investors, supported the elimination of the exception. These commenters generally criticized the current exception as detrimental to shareholders, providing the potential for significant dilution without shareholder approval. Several noted that the historic rationale for the exception was outdated and that the need for shareholder approval should be governed by the substance of the transaction, not the technical status of the shares used. Five commenters, primarily listed companies, advocated maintenance of the status quo. Several of these

⁶ This approach is also reflected by the fact that, pursuant to Section 902.02 of the NYSE Listed Company Manual, listed companies are charged annual fees calculated for each class of security listed based on the number of shares issued and outstanding, including treasury stock and restricted stock.

⁷ See Securities Exchange Act Release No. 48108 (June 30, 2003), 68 FR 39995, 40002 (July 3, 2003).

commenters expressed the view that the exception provides companies with important flexibility in structuring and negotiating transactions in a manner consistent with shareholders' interests.

The Exchange agrees that there is a legitimate concern that the exception could result in an unacceptable level of dilution without shareholder input. Accordingly, the Exchange proposes to amend Section 312.03 to eliminate the treasury stock exception.

The Exchange is also proposing to provide companies a limited transition period with respect to the proposed elimination of the treasury stock exception. The Exchange stated that it is sensitive to companies' need for certainty when planning a transaction involving the issuance of shares. Accordingly, the Exchange has proposed a limited transition period for companies that execute a binding contract with respect to the issuance of common stock prior to the date that is five business days after the date that the Commission publishes notice of this filing in the **Federal Register**, so that the existing treasury share exception would continue to be available for the transaction even though the transaction does not close until after the date of Commission approval of this proposed rule change.

The Exchange is also proposing related amendments to Section 312.04, a section that amplifies and interprets the operative provisions of Section 312.03. As initially filed with the Commission, one of these proposed amendments codified the guidance the Exchange historically provided to issuers on the time frame allowed where an issuer chose to establish the market value of the securities to be issued based on an averaged price. The Exchange allowed issuers to define market value in the context of Section 312.03 as either the last reported sale price on the trading date prior to the date that the issuer enters into a definitive agreement to issue the securities or with reference to average price over a period of time that can not exceed ten trading days prior to the date of issuance. In this amendment, the Exchange is revising its original proposal so that the term "market value" means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the entering into of a binding agreement to issue the securities. For example, if the transaction is entered into on a Tuesday after the close of the regular session at 4 p.m. Eastern Standard Time, then Tuesday's official closing price is used. If the transaction is entered into at any time between the close of the regular

session on Monday and the close of the regular session on Tuesday, then Monday's official closing price is used. This change will result in issuers no longer having the ability to establish market value based on an averaged price. It will also bring this aspect of the rule in line with the similar Nasdaq Stock Market rule.

The Exchange is also proposing to amend Section 312.03(b) to specify that it covers issuances that are part of a "series of related transactions". This proposed change parallels the language used in Section 312.03(c) relating to the issuance of 20% or more of a company's voting common securities.

In addition, the Exchange proposes to amend Section 703.01(A) to require that companies issuing shares from treasury in a transaction or series of related transactions notify the Exchange in writing in advance of the issuance, indicating whether shareholder approval is required pursuant to Section 312.03 and, if required, the date such shareholder approval was obtained. The Exchange also proposes to amend Sections 703.01(A) and 903.02 to require that companies indicate in the Subsequent Listing Application whether shareholder approval is required with respect to the issuance being listed pursuant to Sections 303A.08 or 312.03 and, if required, the date such shareholder approval was obtained.

2. Statutory Basis

The Exchange believes that its proposed rule change, as amended, is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange requested comment from listed companies and investors on

whether or not the treasury stock exception should be eliminated and received 19 comments in response. These comments are described in more detail above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NYSE 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2006-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549-1090.

All submissions should refer to File Number SR-NYSE-2006-30. 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 will also be available for inspection and copying at the principal office of the NYSE. 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-NYSE-2006-30 and should be submitted by November 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,¹⁰

Nancy M. Morris,
Secretary.

[FR Doc. E6-17067 Filed 10-13-06; 8:45 am]

BILLING CODE 8011-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2006-0081]

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/ States, SDX-BENDEX-SVES Files—Matches 6001, 6002 and 6004)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of an amended computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces amendments to an existing computer matching program that SSA conducts with the States.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 965-8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

¹⁰ 17 CFR 200.30-3(a)(12).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for, and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

- (1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
- (2) Obtain the Data Integrity Boards' approval of the match agreements;
- (3) Publish notice of the computer matching programs in the **Federal Register**;
- (4) Furnish detailed reports about matching programs to Congress and OMB;
- (5) Notify applicants and beneficiaries that their records are subject to matching; and
- (6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: September 29, 2006.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

Notice Of Computer Matching Program, Social Security Administration (SSA) With The States**A. PARTICIPATING AGENCIES**

SSA and the States.

B. PURPOSE OF THE MATCHING PROGRAM

Section 1137 of the Social Security Act requires individual States to have in effect an income and eligibility verification system meeting certain requirements in order to administer certain State-administered income, food assistance, and medical assistance programs.

The agreements have been amended to add legal authority for disclosures to non-1137 programs that meet SSA's compatibility requirement and language has been added to address the use of tax data.

A chief purpose of this matching program is to facilitate administration of this provision. Individual agreements with the States will describe the conditions under which SSA agrees to disclose information to the States relating to the eligibility for, and payment of, Social Security, Supplemental Security Income, and Special Veterans Benefits, including certain tax return information disclosed by SSA, in accordance with applicable provisions of the Internal Revenue Code, as well as quarters of coverage, prisoner, and death information.

The matching program will also be used to implement provisions of Pub. L. 104–193, the Personal Responsibility and Work Reconciliation Act of 1996, involving the significance of Social Security coverage information to the eligibility of certain aliens for some Federal and State public benefits. Under this matching program, SSA will disclose certain Social Security coverage information on specific persons to States administering appropriate benefit programs.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM

Sections 1106 and 1137 of the Social Security Act; sections 402, 412, 421 and 435 of Pub. L. 104–193; section 202(x)(3)(B)(iv) of the Social Security Act; section 205(r)(3) of the Social Security Act; and section 6103(p)(4) of Title 26 of the Internal Revenue Code; 5 U.S.C. 552a(b)(3); 5 U.S.C. 552a(a)(7); and 20 CFR 401.150.

D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM

States will provide SSA with names and other identifying information of appropriate benefit applicants or recipients. Specific information from participating States will be matched, as provided in the agreement for the specific programs, with the following systems of records maintained by SSA:

1. SDX—Supplemental Security Record/Special Veteran's Benefits (SSR/SVB) System, SSA/ODSSIS (60–0103);
2. BENDEX—Master Beneficiary Record (MBR), SSA/ORSIS (60–0090) and the Earnings Recording and Self-Employment Income System, SSA/OEEAS (60–0059);
3. EVS—Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OEEAS (60–0058);

4. SVES—SSR/SVB, SSA/ODSSIS (60–0103); MBR, SSA/ORSIS (60–0090); the Earnings Recording and Self-Employment Income System, SSA/OEEAS (60–0059); the Master Files of SSN Holders and SSN Applications, SSA/OEEAS (60–0058); and the Prisoner Update Processing System (PUPS), SSA/OEEAS (60–0269);

5. Quarters of Coverage Query—the Earnings Recording and Self-Employment Income System, SSA/OEEAS (60–0059) and the Master Files of SSN Holders and SSN Applications, SSA/OEEAS (60–0058);

6. Prisoner Query—PUPS, SSA/OEEAS (60–0269); and

7. Death Query—Master Files of SSN Holders and SSN Applications, SSA/OEEAS (60–0058)—subsection referred to as the NUMIDENT.

SSA and the States will exchange information through the File Transfer Management System (FTMS) or online through the Interstate Connection Network. Cartridge or magnetic tape will be used in the event FTMS is inoperable.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever is later. Individual State matching agreements under the program may also become effective upon the signing of the agreements by the parties to the agreements. The agreements will expire on June 30, 2007.

[FR Doc. E6–17084 Filed 10–13–06; 8:45 am]

BILLING CODE 4191-02-P

OFFICE OF SPECIAL COUNSEL**Agency Information Collection Activities; Request for Comment**

AGENCY: Office of Special Counsel.

ACTION: Second Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and implementing regulations at 5 CFR part 1320, the U.S. Office of Special Counsel (OSC), plans to request approval from the Office of Management and Budget (OMB) for use of four previously approved information collections consisting of complaint forms. These collections are listed below in the paragraph called "Title of Collections."

The current OMB approval for Form OSC–11 expires 11/06. We are submitting the other three forms for approval even though their expiration

dates may or may not coincide with Form OSC-11. Current and former Federal employees, employee representatives, other Federal agencies, state and local government employees, and the general public are invited to comment on this information collection for a second time. The first notification, sent out on February 15th, 2006, received no replies. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of OSC functions, including whether the information will have practical utility; (b) the accuracy of OSC's estimate of the burden of the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments should be received by November 4, 2006.

ADDRESSES: Roderick Anderson, Director of Management and Budget, U.S. Office of Special Counsel, 1730 M Street, NW., Suite 218, Washington, DC 20036-4505.

FOR FURTHER INFORMATION CONTACT:

Roderick Anderson, Director of Management and Budget at the address shown above; by facsimile at (202) 254-3715. The complaint forms for the collection of information are available for review on OSC's Web site, at <http://www.osc.gov/forms.htm>.

SUPPLEMENTARY INFORMATION: OSC is an independent agency responsible for, among other things, (1) investigation of allegations of prohibited personnel practices defined by law at 5 U.S.C. 2302(b), protection of whistleblowers, and certain other illegal employment practices under titles 5 and 38 of the U.S. Code, affecting current or former Federal employees or applicants for employment, and covered state and local government employees; and (2) the interpretation and enforcement of Hatch Act provisions on political activity in chapters 15 and 73 of title 5 of the U.S. Code.

Title of Collections: (1) Form OSC-11, (Complaint of Possible Prohibited Personnel Practice of Other Prohibited Activity); (2) Form OSC-12 (Information about filing a Whistleblower Disclosure with the Office of Special Counsel); (3) Form OSC-13 (Complaint of Possible Prohibited Political Activity (Violation of the Hatch Act)); (4) Form OSC-14 (Complaint of Possible Violation of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Type of Information Collection Request: Approval of a previously approved collection of information, of which OSC-11 expires on 11/06 and form OSC-12 expires on 11/06.

Affected public: Current and former Federal employees, applicants for Federal employment, state and local government employees, and their representatives, and the general public.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Respondents: 2,700.

Frequency: Daily.

Estimated Average Amount of Time for a Person to Respond: 64 minutes.

Estimated Annual Burden: 2,899 hours.

Abstract: This form is used by current and former Federal employees and applicants for Federal employment to submit allegations of possible prohibited personnel practices or other prohibited activity for investigation and possible prosecution by OSC.

Dated: October 3, 2006.

Scott J. Bloch,

Special Counsel.

[FR Doc. E6-17130 Filed 10-13-06; 8:45 am]

BILLING CODE 7405-01-S

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2006-33]

Petitions for Exemption; Summary of Petitions Received; Reopening of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received; reopening of comment period.

SUMMARY: This action reopens the comment period for a petition for exemption that was published on September 6, 2006. Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket

number involved and must be received on or before November 6, 2006.

ADDRESSES: You may submit comments [identified by Docket Number FAA-2006-25466] using any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim

Adams (202) 267-8033, Sandy Buchanan-Sumter (202) 267-7271, Susan Lender (202) 267-8029, or Frances Shaver (202) 267-9681, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

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

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2006-25466.

Petitioner: Southwest Airlines Company.

Section of 14 CFR Affected: 14 CFR 121.391(a) and 121.393 (b).

Description of Relief Sought: To permit the Southwest Airlines Company to reduce the number of required flight attendants onboard during the boarding and deplaning of passengers at intermediate stops. During the boarding processes at intermediate stops, the petitioner is requesting to substitute a pilot qualified in emergency evacuation procedures for the forward flight attendant. During the deplaning process at intermediate stops, the petitioner is

requesting to allow a reduced number (one) of flight attendants in the cabin.

[FR Doc. E6-17095 Filed 10-13-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2006-35]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 6, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA-2006-25780 by any of the following methods:

- *Web site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267-8033, Tyneka L. Thomas (202) 267-7626, or Frances Shaver (202) 267-9681, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

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

Brenda D. Courtney

Acting Director, Office of Rulemaking

Petitions for Exemption

Docket No.: FAA-2004-25780

Petitioner: Delta Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.434.

Description of Relief Sought: Delta is requesting relief from § 121.434(a) to allow a pilot serving as second-in command and who is receiving operating experience, to remain serving as second-in command while the check pilot is away from the flight deck.

[FR Doc. E6-17096 Filed 10-13-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2005-22842]

Notice of Opportunity To Participate, Criteria Requirements and Application Procedure for Participation in the Military Airport Program (MAP)

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

ACTION: Notice of criteria and application procedures for designation or redesignation, for the fiscal year 2006 MAP.

SUMMARY: This notice announces the criteria, application procedures, and schedule to be applied by the Secretary of Transportation in designating or redesignating, and funding capital development annually for up to 15 current (joint-use) or former military airports seeking designation or redesignation to participate in the Military Airport Program (MAP).

The MAP allows the Secretary to designate current (joint-use) or former military airports to receive grants from the Airport Improvement Program (AIP). The Secretary is authorized to designate an airport (other than an airport designated before August 24, 1994) only if:

(1) The airport is a former military installation closed or realigned under

the Title 10 U.S.C. 2687 (announcement of closures of large Department of Defense installations after September 30, 1977), or under Section 201 or 2905 of the Defense Authorization Amendments and Base Closure and Realignment Acts; or

(2) The airport is a military installation with both military and civil aircraft operations.

The Secretary shall consider for designation only those current or former military airports, at least partly converted to civilian airports as part of the national air transportation system, that will reduce delays at airports with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings, or will enhance airport and air traffic control system capacity in metropolitan areas or reduce current and projected flight delays (49 U.S.C. 47118(c)).

DATES: Applications must be received on or before November 27, 2006.

ADDRESSES: Submit an original and two copies of *Standard Form (SF) 424*, "Application for Federal Assistance," Prescribed by the Office of Management and Budget Circular A-102, available at <http://www.faa.gov/arp/ace/forms/sf424.doc>, along with any supporting and justifying documentation.

Applicant should specifically request to be considered for designation or redesignation to participate in the fiscal year 2006 MAP. Submission should be sent to the Regional FAA Airports Division or Airports District Office that serves the airport. Applicants may find the proper office on the *FAA Web site* <http://www.faa.gov/arp/regions.cfm?nav=regions> or may contact the office below.

FOR FURTHER INFORMATION CONTACT: Mr. Ball (Kendall.Ball@faa.gov), Airports Financial Assistance Division (APP-500), Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-7436.

SUPPLEMENTARY INFORMATION:

General Description of the Program

The MAP provides capital development assistance to civil airport sponsors of designated current (joint-use) military airfields or former military airports that are included in the FAA's National Plan of Integrated Airport Systems (IAS). Airports designated to the MAP may obtain funds from a set-aside (currently four percent) of AIP discretionary funds for airport development, including certain projects not otherwise eligible for AIP assistance. These airports may also be eligible to

receive grants from other categories of AIP funding.

Number of Airports

A maximum of 15 airports per fiscal year (FY) may participate in the MAP. There are 6 slots available for designation or redesignation in FY 2006. There are no general aviation slots available.

Term of Designation

The maximum term is five fiscal years following designation. The FAA can designate airports for a period of less than five years. The FAA will evaluate the conversion needs of the airport in its capital development plan to determine the appropriate length of designation.

Redesignation

Previously designated airports may apply for redesignation of an additional term not to exceed five years. Those airports must meet current eligibility requirements in 49 U.S.C. 47118 (a) at the beginning of each grant period and have MAP eligible projects. The FAA will evaluate applications for redesignation primarily in terms of warranted projects fundable only under the MAP as these candidates tend to have fewer conversion needs than new candidates. The FAA wants MAP airports to graduate to regular AIP participation.

Eligible Projects

In addition to eligible AIP projects, MAP can fund fuel farms, utility systems, surface automobile parking lots, hangars, and air cargo terminals up to 50,000 square feet. Designated or redesignated military airports can receive not more than \$7,000,000 for each fiscal year after 2005 for projects to construct, improve, or repair terminal building facilities. Designated or redesignated military airports can receive not more than \$7,000,000 for each fiscal year after 2005 for MAP eligible projects that include hangars, cargo facilities, fuel farms, automobile surface parking, and utility work.

Designation Considerations

In making designations of new candidate airports, the Secretary of transportation may only designate an airport (other than an airport so designated before August 24, 1994) if it meets the following general requirements:

- (1) The airport is a former military installation closed or realigned under:
 - (A) Section 2687 of Title 10;
 - (B) Section 201 of the Defense Authorization Amendments and Base

Closure and Realignment Act (BRAC) (10 U.S.C. 2687 note); or

(C) Section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note);

(2) The airport is a military installation with both military and civil aircraft operations; and

(3) The airport is classified as a commercial service or reliever airport in the NPIAS. (See 49 U.S.C. 47105(b)(2) and 47118(c)(1)). One of the designated airports, if included in the NPIAS, may be a general aviation (GA) airport (public airport other than an air carrier airport, 49 U.S.C. 47102(1), (20)) that was a former military installation closed or realigned under BRAC, as amended, or 10 U.S.C. 2687. (See 49 U.S.C. 47118(g)). A general aviation airport must qualify under (1) above.

In designating new candidate airports, the Secretary shall consider if a grant would:

(1) Reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

(2) Enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.

The application for new designations will be evaluated in terms of how the proposed projects would contribute to reducing delays and/or how the airport would enhance air traffic or airport system capacity and provide adequate user services.

Project Evaluation

Recently realigned or closed military airports, as well as active military airfields with new joint-use agreements, have the greatest need of funding to convert to, or to incorporate, civil airport operations. Newly converted airports and new joint-use locations frequently have minimal capital development resources and will therefore receive priority consideration for designation and MAP funding. The FAA will evaluate the need for eligible projects based upon information in the candidate airport's five-year Airport Capital Improvement Plan (ACIP). These projects need to be related to development of that airport and/or the air traffic control system.

1. The FAA will evaluate candidate airports and/or the airports such candidate airports would relieve based on the following specific factors:

- Computability of airport roles and the ability of the airport to provide an adequate airport facility;
- The capability of the candidate airport and its airside and landside

complex to serve aircraft that otherwise must use the relieved airport;

- Landside surface access;
- Airport operational capability, including peak hour and annual capacities of the candidate airport;
- Potential of other metropolitan area airports to relieve the congested airport;
- Ability to satisfy, relieve, or meet air cargo demand within the metropolitan area;
- Forecasted aircraft and passenger levels, type of commercial service anticipated, *i.e.*, scheduled or charter commercial service;
- Type and capacity of aircraft projected to serve the airport and level of operations at the relieved airport and the candidate airport;
- The potential for the candidate airport to be served by aircraft or users, including the airlines, serving the congested airport;
- Ability to replace an existing commercial service or reliever airport serving the area; and
- Any other documentation to support the FAA designation of the candidate airport.

2. The FAA will evaluate the development needs that, if funded, would make the airport a viable civil airport that will enhance system capacity or reduce delays.

Application Procedures and Required Documentation

Airport sponsors applying for designation or redesignation must complete and submit an SF 424, Application for Federal Assistance, and provide supporting documentation to the appropriate FAA Airports regional or district office serving that airport.

Standard Form 424: Sponsors may obtain this fillable form at <http://www.faa.gov/arp.ace/forms/sf424.doc>.

Applicants should fill this form out completely, including the following:

- Mark Item 1, Type of Submission as a "pre-application" and indicate it is for "construction".
- Mark item 8, Type of Application as "new", and in "other", fill in "Military Airport Program".
- Fill in Item 11, Descriptive Title of Applicants Project. "Designation (or redesignation) to the Military Airport Program".
- In Item 15a, Estimated Funding, indicate the total amount of funding requested from the MAP during the entire term for which you are applying.

Supporting Documentation

(A) Identification as a Current or Former Military Airport. The application must identify the airport as either a current or former military airport and indicate whether it was:

(i) Closed or realigned under Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, and/or Section 2905 of the Defense Base Closure and Realignment Act of 1990 (Installations Approved for Closure by the Defense Base Realignment and Closure Commissions), or

(2) Closed or realigned pursuant to 10 U.S.C. 2687 as excess property (bases announced for closure by Department of Defense (DOD) pursuant to this title after September 30, 1977 (this is the date of announcement for closure and not the date the property was deeded to the airport sponsor)), or

(3) A military installation with both military and civil aircraft operations. A general aviation airport applying for the MAP may be joint-use but must also qualify under (1) and (2) above.

(B) Qualifications for MAP:

Submit documents for (1) through (7) below:

(1) Documentation that the airport meets the definition of a "public airport" as defined in 49 U.S.C. Sec. 47102(20).

(2) Documentation indicating the required environmental review for civil reuse or joint-use of the military airfield has been completed. This environmental review need not include review of the individual projects to be funded by the MAP. Rather, the documentation should reflect that the environmental review necessary to convey the property, enter into a long-term lease, or finalize a joint-use agreement has been completed. The military department conveying or leasing the property, or entering into a joint-use agreement, has the lead responsibility for this environmental review. To meet AIP requirements the environmental review and approvals must indicate that the operator or owner of the airport has good title, satisfactory to the Secretary, or assures that good title will be acquired.

(3) For a former military airport, documentation that the eligible airport sponsor holds or will hold satisfactory title, a long-term lease in furtherance of conveyance of property for airport purposes, or a long-term interim lease for 25 years or longer to the property on which the civil airport is being located. Documentation that an application for surplus or BRAC airport property has been accepted by the Federal Government is sufficient to indicate the eligible airport sponsor holds or will hold satisfactory title or a long-term lease.

(4) For a current military airport, documentation that the airport sponsor has an existing joint-use agreement with

the military department having jurisdiction over the airport. This is necessary so the FAA can legally issue grants to the sponsor. Here and in (3) directly above, the airport must possess the necessary property rights in order to accept a grant for its proposed projects during FY 2006.

(5) Documentation that the airport is classified as a "commercial service airport" or a "reliever airport" as defined in 49 U.S.C. 47102(7) and 47102(22), unless the airport is applying for the general aviation slot.

(6) Documentation that the airport owner is an eligible airport "sponsor" as defined in 49 U.S.C. 47102(24).

(7) Documentation that the airport has an FAA approved airport layout plan (ALP) and a five-year airport capital improvement plan (ACIP) indicating all eligible grant projects proposed to be funded either from the MAP or other portions of the AIP.

(c) Evaluation Factors:

Submit information on the items below to assist in our evaluation:

(1) Information identifying the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and, if applicable, the relieved airport. Also, if applicable, information on how the airport contributes to air traffic system or airport system capacity. If served by commercial air carriers, the revenue passenger and cargo levels should be provided.

(2) A description of the airport's projected civil role and development needs for transitioning from use as a military airfield to a civil airport. Include how development projects would serve to reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or enhance capacity in a metropolitan area or reduced current and projected flight delays.

(3) A description of the existing airspace capacity. Describe how anticipated new operations would affect the surrounding airspace and air traffic flow patterns in the metropolitan area in or near the airport. Include a discussion of whether operations at this airport create airspace conflicts that may cause congestion or whether air traffic works into the flow of other air traffic in the area.

(4) A description of the airport's five-year airport capital improvement plan (ACIP), including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs. The ACIP must specifically identify the safety, capacity, and conversion related projects,

associated costs, and projected five-year schedule of project construction, including those requested for consideration for MAP funding.

(5) A description of those projects that are consistent with the role of the airport and effectively contribute to the joint-use or conversion of the airfield to a civil airport. The projects can be related to various improvement categories depending on what is needed to convert from military to civil airport use, to meet required civil airport standards, and/or to provide capacity to the airport and/or airport system. The projects selected (*e.g.*, safety-related, conversion-related, and/or capacity-related), must be identified and fully explained based on the airport's planned use. Those projects that may be eligible under MAP, if needed for conversion or capacity-related purposes, must be clearly indicated, and include the following information:

Airside

- Modification of airport or military airfield for safety purposes, including airport pavement modifications (*e.g.*, widening), marking, lighting, strengthening, drainage or modifying other structures or features in the airport environs to meet civil standards for airport imaginary surfaces as described in 14 CFR part 77.

- Construction of facilities or support facilities such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use.

- Modification of airport or military utilities (electrical distribution systems, communications lines, water, sewer, storm drainage) to meet civil standards. Also, modifications that allow utilities on the civil airport to operate independently, where other portions of the base are conveyed to entities other than the airport sponsor or retained by the Government.

- Purchase, rehabilitation, or modifications of airports and airport support facilities and equipment, including snow removal, aircraft rescue, fire fighting buildings and equipment, airport security, lighting vaults, and reconfiguration or relocation of eligible buildings for more efficient civil airport operations.

- Modifications of airport or military airfield fuel systems and fuel farms to accommodate civil aviation use.

- Acquisition of additional land for runway protection zones, other approached protection, or airport development.

- Cargo facility requirements.

- Modifications which will permit the airfield to accommodate general aviation users.

Landside

- Construction of surface parking areas and access roads to accommodate automobiles in the airport terminal and air cargo areas and provide an adequate level of access to the airport.

- Construction or relocation of access roads to provide efficient and convenient movement of vehicular traffic to, on, and from the airport, including access to passenger, air cargo, fixed based operations, and aircraft maintenance areas.

- Modifications or construction of facilities such as passenger terminals, surface automobile parking lots, hangars, air cargo terminal buildings, and access roads to cargo facilities to accommodate civil use.

(6) An evaluation of the ability of surface transportation facilities (road, rail, high-speed rail, maritine) to provide intermodal connections.

(7) A description of the type and level of aviation and community interest in the civil use of a current or former military airport.

(8) One copy of the FAA-approved ALP for each copy of the application. The ALP or supporting information should clearly show capacity and conversion related projects. Other information such as project costs, schedule, project justification, other maps and drawings showing the project locations, and any other supporting documentation that would make the application easier to understand should also be included. You may also provide photos, which would further describe the airport, projects, and otherwise clarify certain aspects of this application. These maps and ALP's should be cross-referenced with the project costs and project descriptions.

Redesignation of Airports Previously Designated and Applying for up to an Additional Five Years in the Program

Airports applying for redesignation to the Military Airport Program must submit the same information required by new candidate airports applying for a new designation. On the SF 424, Application for Federal Assistance, prescribed by the Office of Management and Budget Circular A-102, airports must indicate their application is for redesignation to the MAP. In addition to the above information, they must explain:

(1) Why a redesignation and additional MAP eligible project funding is needed to accomplish the conversion to meet the civil role of the airport and

the preferred time period for redesignation not to exceed five years;

(2) Why funding of eligible work under other categories of ALP or other sources of funding would not accomplish the development needs of the airport; and

(3) Why, based on the previously funded MAP projects, the projects and/or funding level were insufficient to accomplish the airport conversion needs and development goals.

This notice is issued pursuant to Title 49 U.S.C. 47118.

Issued at Washington, DC on October 11, 2006.

Benito DeLeon,

Deputy Director, Office of Airport Planning and Programming.

[FR Doc. 06-8686 Filed 10-13-06; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2006-25026; Notice 1]

Pipeline Safety: Request for Waiver; Key West Pipeline Company

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice of intent to consider waiver request.

SUMMARY: PHMSA is seeking public comment on a waiver request from Key West Pipeline Company (KWPC) and Pipeline and Terminal Management Corporation (PTMC). KWPC and PTMC are requesting a waiver from the regulations governing the marking and depth of cover of burial requirements for underwater pipelines. Instead of marking and burying its pipeline as required under PHMSA regulations, KWPC and PTMC propose to post and maintain warning signs.

DATES: Persons interested in submitting written comments on the waiver request described in this notice must do so by November 15, 2006. Comments received after the due date may be considered at PHMSA's discretion.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation (DOT), Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. The Dockets Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

Alternatively, you may submit written comments to the docket electronically at the following Web address: <http://dms.dot.gov>. All written comments should identify the docket and notice number stated in the heading of this document. Anyone who would like confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to <http://dms.dot.gov>, click on "Comment/Submissions." You can also read comments and other materials in the docket. General information about the Federal pipeline safety program is available at <http://phmsa.dot.gov>.

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 (65 FR 19477) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

James Reynolds by telephone at 202-366-2786, by fax at 202-366-4566, by mail at DOT, Pipeline and Hazardous Materials Safety Administration (PHMSA), 400 7th Street, SW., Room 2103, Washington, DC 20590, or by e-mail at james.reynolds@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

KWPC and PTMC, manager of KWPC's jet fuel receipt, storage, and pipeline operations in Key West, FL, request a waiver of compliance from the regulatory requirements of 49 CFR 195.413(c) (2) and (3).

Section 195.413(c)(2) requires an operator to promptly, but not later than 7 days after discovery, mark the location of its pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center. The requested waiver would allow KWPC to install signs on the shoreline of Key West, FL and Fleming Key and on the bridge linking Key West, FL to Fleming Key. Moreover, the signs will identify the location of the pipeline as a restricted area and prohibit stopping or anchoring within 100 yards of the shoreline pursuant to 33 CFR 334.610.

Section 195.413(c)(3) requires an operator within 6 months after discovery, or no later than November 1

of the following year if the 6 month period is later than November 1 of the year of discovery, bury the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the underwater natural bottom (as determined by recognized and generally accepted practices) for normal excavation or 18 inches (457 millimeters) for rock excavation. The requested waiver would allow KWPC's pipeline to exist exposed above the underwater natural bottom in Fleming Channel and require KWPC to inspect the pipeline on an annual basis.

On August 16–18, 2005, KWPC performed an inspection of the underwater segments of its pipeline. The underwater inspection concluded that less than 200 feet of KWPC's pipeline was partially or totally exposed above the underwater natural bottom in Fleming Channel, an inlet of the Gulf of Mexico.

The exposed segment is east of the bridge connecting Key West, FL to Fleming Channel and is located in waters that are approximately 11 feet deep at mean low water and approximately 13.5 feet deep at mean high water. The exposed segment lies immediately adjacent to the Trumbo Point Naval Annex, part of Naval Air Station—Key West (NASKW) military reservation. Both sides of Fleming Channel within the immediate vicinity of the exposed pipeline are bordered by the NASKW.

Upon discovering the exposed pipe on August 18, 2005, KWPC notified the National Response Center of the location and the geographic coordinates of the exposed pipeline. KWPC also met with the U.S. Coast Guard (USCG) on the same day to discuss suitable ways to mark the exposed pipeline in accordance with pipeline safety regulations and to prevent the markers from becoming a hazard to navigation in the active boating channel.

KWPC determined that marking the exposed pipeline in compliance with § 195.413(c)(2) and (3) created a hazard to navigation; therefore, KWPC proposed marking the exposed pipeline by placing a warning sign on the bridge crossing the channel, as well as installing two signs on the opposing sides of the waterway on NASKW property.

On August 19, 2005, KWPC submitted a written request to the USCG seeking approval of the marking proposal. In its proposal request to the USCG, KWPC noted that the potential for damage to the pipeline from recreational boaters is minimized because the pipeline is in an area where anchoring is prohibited, pursuant to 33 CFR 334.610.

In a letter dated September 6, 2005, the USCG responded to KWPC's proposal request and did not object to KWPC's proposed method of marking the exposed pipeline.

Request for Waiver

KWPC requests a waiver from § 195.413(c)(2) and (3) and asks that it be allowed to take the following actions:

(1) Install a sign on the shoreline of Key West, FL and Fleming Key immediately adjacent to the exposed pipeline segment, with the following information approved by the USCG—

Warning
Restricted Area
Transit Only
No Stopping or Anchoring
Within 100 Yards of Shore
Underwater Utility
33 CFR § 334.610

(2) Install a similar sign on the west side of the permanent bridge linking Key West, FL to Fleming Key.

(3) Inspect the exposed pipeline segment on an annual basis to confirm that there has been no material change in the condition of the exposed segment.

KWPC's exposed pipeline is located within the restricted waters of Fleming Channel. The U.S. Navy patrols the restricted waters of Fleming Channel to ensure that the waters are used for transient traffic as prescribed in 33 CFR 334.610.

Request for Public Comment

PHMSA will consider the KWPC and PTMC waiver request and whether the KWPC and PTMC proposal will yield an equivalent or greater degree of safety than what is currently provided by the regulations. This notice is PHMSA's only request for public comment before making a decision. After considering any comments received, PHMSA may grant the KWPC and PTMC waiver request as proposed, with modifications and conditions, or deny the request. If the waiver request is granted and PHMSA subsequently determines that the effect of the waiver is inconsistent with pipeline safety, PHMSA may impose additional conditions or revoke the waiver at its sole discretion.

Issued in Washington, DC on October 6, 2006.

Theodore L. Willke,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. E6–17097 Filed 10–13–06; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Demand Deposit Securities of the State and Local Government Series (SLGS); Average Marginal Tax Rate and Treasury Administrative Cost

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice of estimated average marginal tax rate and Treasury administrative cost for Demand Deposit certificates of indebtedness—State and Local Government Series.

SUMMARY: This notice is being published to provide the information necessary to apply the interest rate formula for Demand Deposit certificates of indebtedness—State and Local Government Series (SLGS) (31 CFR part 344, subpart C). In the final rule governing securities of the State and Local Government Series that appeared in the **Federal Register** of June 30, 2005, (70 FR 37904), provision was made to provide by notice the information necessary to apply the interest rate formula to the Demand Deposit certificates of indebtedness, i.e., the average yield for three-month Treasury bills at the most recent auction, multiplied by one minus the estimated average marginal tax rate (1–MTR) of purchasers of tax-exempt bonds, less the Treasury administrative cost. The factor necessary to convert the interest rate to a tax-exempt equivalent (1—the estimated average marginal tax rate of purchasers of tax-exempt bonds) is 1–.24 or .76. The Treasury administrative cost is one basis point.

EFFECTIVE DATE: This notice is effective October 16, 2006.

FOR FURTHER INFORMATION CONTACT:

Keith Rake, Deputy Assistant Commissioner, Office of the Assistant Commissioner for Public Debt Accounting, Bureau of the Public Debt, 200 3rd St., P.O. Box 396, Parkersburg, WV 26106–0396, (304) 480–5101 (not a toll-free number), or by e-mail at opdasib@bpd.treas.gov or Edward Gronseth, Deputy Chief Counsel, Elizabeth Spears, Senior Attorney, or Brian Metz, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, P.O. Box

1328, Parkersburg, WV 26106-1328, (304) 480-8692 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of the Treasury, under the authority of 26 U.S.C. 141 note; 31 U.S.C. 3102-3104 and 3121, offers SLGS Demand Deposit certificates of indebtedness. These securities are one-day certificates of indebtedness, issued in a minimum amount of \$1,000, or in any larger amount, with interest accrued and added to the principal daily. In publishing the final rule governing securities of the State and Local Government Series on June 30, 2005, provision was made to provide by notice the information necessary to apply the interest rate formula to the Demand Deposit certificates of indebtedness, i.e., the average yield for three-month Treasury bills at the most recent auction, multiplied by one minus the estimated average marginal tax rate (1-MTR) of purchasers of tax-exempt bonds, less the Treasury administrative cost. The factor "1-MTR" is .76. The Treasury administrative cost is one basis point. Both the "1-MTR" and the Treasury administrative cost are subject to redetermination by the Department of the Treasury. Any future changes will be published by notice in the **Federal Register**.

Dated: October 11, 2006.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 06-8711 Filed 10-11-06; 3:15 pm]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, November 2, 2006 from 11 a.m. e.t.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1-888-912-1227, or 954-423-7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, November 2, 2006, at 11 a.m. e.t. via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 954-423-7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1-888-912-1227 or 954-423-7979, or post comments to the Web site: <http://www.improveirs.org>.

The agenda will include: Various IRS issues.

Dated: October 3, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6-17046 Filed 10-13-06; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 7, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1-888-912-1227, or 206-220-6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Tuesday, November 7, 2006 from 9 a.m. Pacific Time to 10:30 a.m. Pacific Time via a telephone conference call. If you would like to have the TAP consider a

written statement, please call 1-888-912-1227 or 206-220-6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W-406, Seattle, WA 98174 or you can contact us at <http://www.improveirs.org>. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1-888-912-1227 or 206-220-6096.

The agenda will include the following: Various IRS issues.

Dated: October 3, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6-17048 Filed 10-13-06; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Computer Matching Program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA), recipient agency, intends to continue a recurring computer-matching program with the Social Security Administration (SSA), source agency. The VA will match pension and parents' dependency and indemnity compensation (DIC) records with SSA records.

DATES: VA will file a report of the subject matching agreement with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated in this notice.

ADDRESSES: Written comments may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273-9026; or e-mail to VAregulations@mail.va.gov. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273-9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Pamela Liverman (212A), (757) 858-6148, ext. 107.

SUPPLEMENTARY INFORMATION: This information is required by 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and OMB.

A. Participating Agencies

The U.S. Social Security Administration and the U.S. Department of Veterans Affairs.

B. Purpose of the Match

The purpose of the match is to compare income status as reported to VA with records maintained by SSA. VA plans to match records of beneficiaries who receive pension and DIC with the Master Beneficiary Record (MBR) and the Earnings Recording and Self-Employment Income System (MEF) maintained by SSA. This agreement reflects both agencies' responsibilities under the Privacy Act (5 U.S.C., Section 552a), and the regulations promulgated.

C. Authority for Conducting the Matching Program

The authority to conduct this match is 38 U.S.C. 5106.

D. Records To Be Matched

The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/

22), first published at 41 FR 9294 (March 3, 1976), and last amended at 70 FR 34186 (June 13, 2005), with other amendments as cited therein.

The SSA records consist of the SSA Master Beneficiary Record (MBR), SSA/ORSIS, 60-0090. In the absence of MBR data, SSA will attempt to verify the social security number (SSN) in VA records using the SSA Earnings Recording and Self-Employment Income System (MEF), SSA/OEEAS, 60-0059.

E. Description of the Computer Matching Program

VA plans to match records of VA beneficiaries receiving income-dependent benefits with SSA records. VA will use this information to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. The matching program will enable VA to ensure accurate reporting of income.

VA will electronically furnish a file containing the following data: SSN, Title II CAN, name, gender, date of birth, VA claim number, and other general identifiers. SSA will provide the necessary benefit information electronically from the files of the SSA Master Beneficiary Record (MBR), SSA/ORSIS, 60-0090, or in the absence of MBR data, SSA will attempt to verify the SSN in VA records using the SSA Earnings Recording and Self-Employment Income System (MEF), SSA/OEEAS, 60-0059.

F. Inclusive Date of the Matching Program

The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and OMB, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original agreement.

This computer-matching program is subject to public comment and review by Congress and OMB. In accordance with 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100-503.

Approved: September 29, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E6-17038 Filed 10-13-06; 8:45 am]

BILLING CODE 8320-01-P



Federal Register

**Monday,
October 16, 2006**

Part II

Department of Labor

Secretary's Order 10-2006; Notice

DEPARTMENT OF LABOR**Office of the Secretary****[Secretary's Order 10-2006]****The Role of the Regional Representatives**

1. *Purpose and Background.* This Order supersedes Secretary's Order 5-87 and updates the responsibilities assigned to the Regional Representatives. The Regional Representatives were formally known as, and referred to in that Order as Secretary's Representatives.

2. *Definition of Roles and Assignment of Responsibilities.*

A. The Assistant Secretary for Congressional and Intergovernmental Affairs has been delegated authority and assigned responsibility for the supervision and direction of the activities of the Regional Representatives.

B. Duties of the Regional Representatives.

(1) Establishing liaison with stakeholders, including business, labor, non-profits, and other community organizations.

(2) Establishing liaison with Governors and State and local officials.

(3) Providing the point of contact in departmental regional offices for members of Congress or their representatives, Governors and other state and local officials regarding non-agency specific and department-wide initiatives.

(4) Referring people seeking assistance or information to the appropriate regional or national DOL agency officials.

(5) Carrying out special, non-recurring projects and assignments on behalf of the Secretary, the Assistant Secretary for Congressional and Intergovernmental Affairs, and other national office officials as assigned.

(6) Participating as a member of the DOL Regional Executive Committee.

(7) Meeting as needed with regional representatives of other Federal agencies.

(8) Participating in the planning and implementation of activities of DOL agencies regarding region-wide or major meetings, conferences, forums, and other gatherings, particularly those involving Federal government officials, State, local and labor organizations.

(9) Monitoring non-routine correspondence with Congressional offices, Governors' offices, and other elected State and local officials to identify trends and problem areas and initiating action as appropriate. Referring agency correspondence as appropriate.

(10) Monitoring local and regional media for items of special interest to the Department.

(11) Performing other duties as assigned.

C. The DOL Agency Heads are responsible for:

(1) Ensuring that their regional agency heads regularly advise, coordinate and consult with the Regional Representatives on all major problems, issues and initiatives in the region, including supplying relevant program and policy information.

(2) Ensuring that regional agency heads coordinate planning and scheduling of region-wide or major meetings, conferences, forums and other related events with the Regional Representatives. Ensuring that senior regional officials provide the Regional Representatives advance notice of major constituent visits and meetings with elected officials.

D. The DOL Regional Agency Heads are responsible for:

(1) Informing the Regional Representatives in their region of pertinent matters as they occur, including supplying important program and policy information.

(2) Providing the Regional Representatives in their region with copies of non-routine correspondence to and from Congressional offices, Governors, and State and local elected officials.

(3) Coordinating planning and scheduling of region-wide or major meetings, conferences, forums and other

related events with the Regional Representatives in their region, as well as advance notice of major constituent visits and meetings with elected officials.

(4) Advising the Regional Representative in their region of the approval of funding of projects under their program areas in advance of public announcement when possible.

(5) Informing the Regional Representatives in their region of any other pertinent matters as they occur.

3. *Directives Affected.*

A. Secretary's Order No. 5-87 is cancelled.

B. Section 4(b) of Secretary's Order 7-89 ("Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Congressional and Intergovernmental Affairs and to the Assistant Secretary for Public Affairs") is modified by deleting "Secretary's Representative-at-Large and the Secretary's Representatives in the Regions" and substituting "Regional Representatives."

C. The use of the term "Secretary's Representative" in any other Secretary's Order shall be replaced by "Regional Representative."

4. *Reservations of Authority.*

A. This Secretary's Order does not affect the authorities and responsibilities of the Office of the Inspector General under the Inspector General Act of 1978, as amended, or Secretary's Order 04-2006 (February 21, 2006).

B. No delegation of authority or assignment of responsibility under this Order will be deemed to affect the Secretary's authority to continue to exercise or further delegate such authority or responsibility.

5. *Effective Date.* This order is effective immediately.

Dated: October 2, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 06-8663 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-23-P



Federal Register

**Monday,
October 16, 2006**

Part III

Department of Labor

Secretary's Order 11-2006; Notice

DEPARTMENT OF LABOR**Office of the Secretary****[Secretary's Order 11-2006]****Legislative Clearance Process;
Drafting Legislative Proposals**

1. *Purpose and Scope.* The purpose of this Secretary's Order is to delegate authorities and responsibilities within the Department of Labor for preparation and clearance of legislative comments and legislative proposals.

2. *Authorities and Reference.* This Order is issued under the authority of 5 U.S.C. 301 (Departmental Regulations); 29 U.S.C. 551 (Establishment of Department; Secretary; Seal); and Reorganization Plan No. 6 of 1950 (5 U.S.C. Appendix 1).

3. *Background.* The Department of Labor (DOL) is requested to comment on many legislative proposals and related matters by the Office of Management and Budget (OMB) and Congressional committees. The Solicitor of Labor is responsible for legal review of all legislative matters. Related to these legal responsibilities and at the direction of the Secretary, the Office of the Solicitor also obtains and coordinates the views of the DOL offices and agencies on legislative matters. In this connection, the Solicitor has delegated to the Associate Solicitor for Legal Counsel the responsibility of serving as Legislative Liaison Officer with OMB in carrying out the Department's responsibilities under OMB Circular A-19. This Order sets forth the procedures to be followed to ensure full consideration of legislative proposals affecting the Department, and to secure appropriate clearance before the Department's views are officially communicated.

The Department of Labor is also charged with the development and submission of proposed legislation related to its mission and statutory duties. This Order also sets forth the responsibilities of DOL agencies for the drafting of legislation and the processes for clearing such draft legislation.

Only the Secretary of Labor may authorize the expression of views of the Department, or any component thereof, on legislative proposals or the transmittal of draft legislation. Pursuant to Secretary's Order 7-89, the Assistant Secretary for Congressional and Intergovernmental Affairs is delegated authority and assigned responsibility for maintaining the Department's relationship with the Congress, legislative planning and action on the President's initiatives and other legislative matters affecting the Department, and coordinating the

transmittal of information to the Congress.

4. *Legislative Reports—Delegation of Authorities and Assignment of Responsibilities.*

A. *The Solicitor.*

(1) As the initial step in the preparation of the Department's views on legislative proposals, the Office of the Solicitor will expeditiously transmit the proposals and supporting materials for comment to all DOL Agencies and Offices impacted by the proposals, in addition to Office of Congressional and Intergovernmental Affairs and Office of the Assistant Secretary for Policy (OASP). The legislative proposals and supporting materials will be sent to individuals designated by Assistant Secretaries and Agency/Office heads. The Office of the Solicitor will determine deadlines for response. Because of time constraints imposed by OMB or the Congress, these deadlines will frequently be very short.

(2) It is important that these deadlines be strictly adhered to in order to permit timely preparation of draft Departmental views. Accordingly, when a deadline for comments is not met by an Agency or Office, it may be necessary for the draft views to be sent forward without an Agency's or Office's views.

(3) Once the Office of the Solicitor receives the views of the affected Agencies and Offices, it will prepare the draft Departmental views. These views may be in written or oral form, as appropriate. The draft views will be circulated to all affected Agencies and Offices in addition to OCLIA and OASP. The Assistant Secretary for Congressional and Intergovernmental Affairs, the Assistant Secretary for Policy, and the Solicitor of Labor shall also review all Departmental views.

(4) Following the clearance of the draft views by the affected Agencies, Offices, and above-referenced officials, the Office of the Solicitor will present the draft views to the Office of the Secretary in the manner specified by that Office.

(a) If an affected Agency or Office does not provide input within the specified time, the Office of the Solicitor may use its discretion to proceed without this input, but shall note the absence of the Agency's input in presenting the draft views to the Office of the Secretary.

(b) If there are differences among the agencies on the draft views, the Office of the Solicitor will endeavor to reconcile them with appropriate involvement by the Office of the Assistant Secretary for Congressional and Intergovernmental Affairs and the Office of the Assistant Secretary for

Policy. In the event that differences remain, these shall be presented to the Office of the Secretary.

(5) Once the Office of the Secretary approves the draft views, the Office of the Solicitor shall transmit them to OMB.

(6) The Office of the Solicitor, in its role as Legislative Liaison Officer to OMB, shall have the responsibility for receiving any passback from OMB and coordinating the resolution of any outstanding issues with affected DOL agencies.

(7) Following receipt of OMB clearance, the Office of the Solicitor shall make appropriate arrangements for the actual communication of the Department's views.

(8) The Office of the Solicitor will establish a procedure to monitor the progress of legislative reports (i.e., the official views of the Administration as developed by the foregoing process) and will keep each Agency and Office informed as to the time limits that must be met.

B. *Assistant Secretary for Congressional and Intergovernmental Affairs.* The Assistant Secretary for Congressional and Intergovernmental Affairs has been delegated authority and assigned responsibility for maintaining the Department's relationship with the Congress, legislative planning and action on the President's legislative initiatives and other legislative matters affecting the Department, and coordinating communications with Congress, including communications initiated by Congress. No other Agency or Office may communicate views to the Congress on legislative matters without the approval of the Assistant Secretary.

C. *Assistant Secretaries and Agency Heads.* Each Agency and Office shall assure the availability of officials authorized to comment on legislative proposals and clear reports at all times during business hours. For this purpose, each Agency and Office Head shall provide a list of persons in addition to himself who has been delegated such authority. This list shall be transmitted to the Solicitor.

5. *Preparation of Legislation—Delegation of Authorities and Assignment of Responsibilities.*

A. Before any substantial expenditure of time or resources in the development of any legislative proposal, the head of the Agency or Office advancing the proposal shall notify the Assistant Secretary for Policy, the Assistant Secretary for Congressional and Intergovernmental Affairs, and the Solicitor of Labor with respect to the nature of the legislation that will be proposed.

B. The Assistant Secretary for Policy will inform the Agency or Office Head whether consideration of the proposal by the Policy Planning Board (PPB) is necessary. (Please see Secretary's Order 3-2002 (Policy Planning Board).

C. Following a decision as to the applicability of PPB procedures, the proposing Agency or Office will contact the Office of the Solicitor to determine whether additional internal clearance, consistent with Section 4 of this Order, is necessary. The Office of the Solicitor shall also ensure that the proposed legislation is accompanied by appropriate supporting documentation, such as section-by-section analyses and transmittal letters ("transmittal package").

D. The Office of the Assistant Secretary for Policy and/or the Office of the Solicitor shall present the cleared legislative proposal and transmittal package to the Office of the Secretary of Labor for review and Departmental approval.

E. If the Office of the Secretary approves the proposed legislation and transmittal package, the Office of the Solicitor will submit these items to OMB in accordance with OMB Circular A-19.

F. The Office of the Solicitor shall have the responsibility of receiving any passback from OMB and coordinating the resolution of any outstanding issues with the affected DOL Agencies or Offices.

G. Following receipt of OMB clearance, the Office of the Solicitor will work with the Office of Congressional and Intergovernmental Affairs and the Office of the Secretary to arrange for formal transmittal of the draft legislation and supporting documents to the Congress.

6. *Directives Affected.*

A. This Order repeals Secretary's Order 26-1972 ("Deadlines on Legislative Comments—Sign-off Authority for Legislative Comments—Drafting Legislative Proposals").

B. This Order does not affect the responsibilities of the Assistant Secretary for Congressional and Intergovernmental Affairs or the Assistant Secretary for Public Affairs under Secretary's Order 7-89.

C. This Order does not affect the authorities or responsibilities of the Office of Inspector General (OIG) under the Inspector General Act of 1978, as amended, or under Secretary's Order 04-2006 (February 21, 2006).

D. This Order does not affect the authorities or responsibilities of the EEOICPA Ombudsman under the Energy Employees Occupational Illness Compensation Program Act or under Secretary's Order 1-2005.

7. *Effective Date.* This Order is effective immediately.

Dated: October 2, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 06-8664 Filed 10-13-06; 8:45 am]

BILLING CODE 4510-23-P

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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. 318/P.L. 109-317

To authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes. (Oct. 11, 2006; 120 Stat. 1743)

H.R. 326/P.L. 109-318

To amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area, and for other purposes. (Oct. 11, 2006; 120 Stat. 1745)

H.R. 1728/P.L. 109-319

Ste. Genevieve County National Historic Site Study Act of 2005 (Oct. 11, 2006; 120 Stat. 1746)

H.R. 2720/P.L. 109-320

Salt Cedar and Russian Olive Control Demonstration Act (Oct. 11, 2006; 120 Stat. 1748)

H.R. 3443/P.L. 109-321

To direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District. (Oct. 11, 2006; 120 Stat. 1753)

H.R. 5539/P.L. 109-322

North American Wetlands Conservation Reauthorization Act of 2006 (Oct. 11, 2006; 120 Stat. 1756)

H.R. 6106/P.L. 109-323

To extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 109-148. (Oct. 11, 2006; 120 Stat. 1757)

S. 213/P.L. 109-324

Rio Arriba County Land Conveyance Act (Oct. 11, 2006; 120 Stat. 1758)

S. 2146/P.L. 109-325

To extend relocation expenses test programs for Federal

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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>.

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200-299	(869-060-00132-8)	37.00	July 1, 2006	1200-End	(869-056-00182-7)	61.00	Oct. 1, 2005
300-End	(869-060-00133-6)	61.00	July 1, 2006	46 Parts:			
37	(869-060-00134-4)	58.00	July 1, 2006	1-40	(869-056-00183-5)	46.00	Oct. 1, 2005
38 Parts:				41-69	(869-056-00184-3)	39.00	⁹ Oct. 1, 2005
0-17	(869-060-00135-2)	60.00	July 1, 2006	70-89	(869-056-00185-1)	14.00	⁹ Oct. 1, 2005
18-End	(869-060-00136-1)	62.00	July 1, 2006	90-139	(869-056-00186-0)	44.00	Oct. 1, 2005
39	(869-060-00137-9)	42.00	July 1, 2006	140-155	(869-056-00187-8)	25.00	Oct. 1, 2005
40 Parts:				156-165	(869-056-00188-6)	34.00	⁹ Oct. 1, 2005
1-49	(869-060-00138-7)	60.00	July 1, 2006	166-199	(869-056-00189-4)	46.00	Oct. 1, 2005
50-51	(869-060-00139-5)	45.00	July 1, 2006	200-499	(869-056-00190-8)	40.00	Oct. 1, 2005
52 (52.01-52.1018)	(869-060-00140-9)	60.00	July 1, 2006	500-End	(869-056-00191-6)	25.00	Oct. 1, 2005
*52 (52.1019-End)	(869-060-00141-7)	61.00	July 1, 2006	47 Parts:			
53-59	(869-060-00142-5)	31.00	July 1, 2006	0-19	(869-056-00192-4)	61.00	Oct. 1, 2005
60 (60.1-End)	(869-060-00143-3)	58.00	July 1, 2006	20-39	(869-056-00193-2)	46.00	Oct. 1, 2005
60 (Apps)	(869-060-00144-7)	57.00	July 1, 2006	40-69	(869-056-00194-1)	40.00	Oct. 1, 2005
61-62	(869-060-00145-0)	45.00	July 1, 2006	70-79	(869-056-00195-9)	61.00	Oct. 1, 2005
63 (63.1-63.599)	(869-060-00146-8)	58.00	July 1, 2006	80-End	(869-056-00196-7)	61.00	Oct. 1, 2005
63 (63.600-63.1199)	(869-060-00147-6)	50.00	July 1, 2006	48 Chapters:			
*63 (63.1200-63.1439)	(869-060-00148-4)	50.00	July 1, 2006	1 (Parts 1-51)	(869-056-00197-5)	63.00	Oct. 1, 2005
*63 (63.1440-63.6175)	(869-060-00149-2)	32.00	July 1, 2006	1 (Parts 52-99)	(869-056-00198-3)	49.00	Oct. 1, 2005
				2 (Parts 201-299)	(869-056-00199-1)	50.00	Oct. 1, 2005
				3-6	(869-056-00200-9)	34.00	Oct. 1, 2005
				7-14	(869-056-00201-7)	56.00	Oct. 1, 2005
				15-28	(869-056-00202-5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29-End	(869-056-00203-3)	47.00	Oct. 1, 2005
49 Parts:			
1-99	(869-056-00204-1)	60.00	Oct. 1, 2005
100-185	(869-056-00205-0)	63.00	Oct. 1, 2005
186-199	(869-056-00206-8)	23.00	Oct. 1, 2005
200-299	(869-056-00207-6)	32.00	Oct. 1, 2005
300-399	(869-056-00208-4)	32.00	Oct. 1, 2005
400-599	(869-056-00209-2)	64.00	Oct. 1, 2005
600-999	(869-056-00210-6)	19.00	Oct. 1, 2005
1000-1199	(869-056-00211-4)	28.00	Oct. 1, 2005
1200-End	(869-056-00212-2)	34.00	Oct. 1, 2005
50 Parts:			
1-16	(869-056-00213-1)	11.00	Oct. 1, 2005
17.1-17.95(b)	(869-056-00214-9)	32.00	Oct. 1, 2005
17.95(c)-end	(869-056-00215-7)	32.00	Oct. 1, 2005
17.96-17.99(h)	(869-056-00215-7)	61.00	Oct. 1, 2005
17.99(i)-end and 17.100-end	(869-056-00217-3)	47.00	Oct. 1, 2005
18-199	(869-056-00218-1)	50.00	Oct. 1, 2005
200-599	(869-056-00218-1)	45.00	Oct. 1, 2005
600-End	(869-056-00219-0)	62.00	Oct. 1, 2005
CFR Index and Findings			
Aids	(869-060-00050-0)	62.00	Jan. 1, 2006
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¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

⁵ No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

⁶ No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

⁷ No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

⁸ No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

⁹ No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

¹⁰ No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

¹¹ No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.