Federal Register

2–22–07 Thursday

Vol. 72 No. 35 Feb. 22, 2007

Pages 7923–8086

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.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 72 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

Printed on recycled paper.

Contents

Federal Register

Vol. 72, No. 35

Thursday, February 22, 2007

Agency for International Development
NOTICES
Meetings:
International Food and Agricultural Development Board, 7951

Agricultural Marketing Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7951–7952

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Witchweed, 7923–7926
PROPOSED RULES
Exportation and importation of animals and animal products:
Classical swine fever; disease status change—
Nayarit, Mexico; correction, 7934
NOTICES
Environmental statements; availability, etc.:
Nonregulated status determinations—
Syngenta Seeds, Inc.; corn genetically engineered for resistance to insects, 7952

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Dairy Farmers of America et al., 8010–8017

Bonneville Power Administration
NOTICES
Environmental statements; record of decision:
Fish and wildlife mitigation projects (2007-2009 FY), 7972

Centers for Medicare & Medicaid Services
NOTICES
Privacy Act; systems of records, 7993–7998

Children and Families Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7998–7999

Civil Rights Commission
NOTICES
Senior Executive Service Performance Review Board; membership, 7953

Coast Guard
RULES
Organization, functions, and authority delegations:
Commanding Officer, National Maritime Center; correction, 7929–7931

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Textile and apparel categories:
Dominican Republic Central America Free Trade Agreement; commercial availability—
2-way stretch woven fabrics, 7957
Dominican Republic-Central American Free Trade Agreement; commercial availability—
2-way stretch woven fabrics, 7956–7957

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 7957–7958

Consumer Product Safety Commission
NOTICES
Meetings:
Mattress flammability standard; seminars, 7958–7959

Defense Department
NOTICES
Reports and guidance documents; availability, etc.:
Uniform allowances; higher initial maximum rate; police personnel, 7959–7960

Drug Enforcement Administration
PROPOSED RULES
Schedules of controlled substances:
Lisdexamfetamine; placement into Schedule II, 7945–7947
NOTICES
Applications, hearings, determinations, etc.:
Cambrex Charles City, Inc., 8017
JFC Technologies LLC, 8017–8018

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7960
Grants and cooperative agreements; availability, etc.:
Safe and drug-free schools programs—
Foundations for Learning Program, 7960–7964

Election Assistance Commission
NOTICES
Meetings; Sunshine Act, 7964

Employment and Training Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Workforce Innovation in Regional Economic Development Initiative, 8019–8027

Energy Department
See Bonneville Power Administration
NOTICES
Environmental statements; record of decision:
Strategic Petroleum Reserve expansion; site selection, 7964–7972

Environmental Protection Agency
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7972–7979
Pesticide programs:
Insect repellent-sunscreen combination products; labeling, product performance, and safety standards; information request, 7979–7983
Superfund; response and remedial actions, proposed settlements, etc.:
Starmet CMI Site, SC, 7983
Water quality criteria:
Aquatic life ambient freshwater quality criteria—Copper, 7983–7985

Equal Employment Opportunity Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7986

Executive Office of the President
See Presidential Documents

Export-Import Bank
NOTICES
Meetings:
Advisory Committee, 7986

Farm Credit Administration
RULES
Farm credit system:
Disclosure to stockholders—
Financial disclosure and reporting requirements, 7927

Federal Aviation Administration
RULES
Class E airspace, 7928–7929
PROPOSED RULES
Airworthiness directives:
Airbus, 7936–7939
Empresa Brasileira de Aeronautica S.A. (EMBRAER), 7934–7936
McDonnell Douglas, 7939–7941

Federal Communications Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 7986–7990
Meetings; Sunshine Act, 7990

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Colorado, 8000
Florida, 8000
Illinois, 8001
Missouri, 8001

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Carter County, TN, 8054–8055
Highway planning and construction; licenses, permits, approvals, etc.:
Washington; I-405 Renton Nickel Improvement Project, 8055–8056

Federal Maritime Commission
NOTICES
Agreements filed, etc., 7990–7991

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 7991
Change in bank control; correction, 7991
Formations, acquisitions, and mergers, 7991–7992
Permissible nonbanking activities, 7993

Fish and Wildlife Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8002–8006
Endangered and threatened species:
Incidental take permits—
Iron County, UT; Utah prairie dog, 8009
Endangered and threatened species and marine mammal permit applications, determinations, etc., 8006–8007

Food and Drug Administration
PROPOSED RULES
Human drugs:
Insect repellent-sunscreen products (OTC); information request, 7941–7945
NOTICES
Human drugs:
Patent extension; regulatory review period determinations—
LEVEMIR, 7999–8000

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Indian Affairs Bureau
NOTICES
Indian tribes, acknowledgment of existence determinations, etc.:
Mashpee Wampanoag Indian Tribal Council, Inc., MA, 8007–8009

Information Security Oversight Office
NOTICES
Meetings:
Public Interest Declassification Board Republication, 8031–8032

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
NOTICES
Meetings:
Exxon Valdez Oil Spill Trustee Council, 8001–8002

Internal Revenue Service
RULES
Excise taxes:
Group health plans; access, portability, and renewability requirements—
Nondiscrimination in health coverage in group market; correction, 7929
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8056–8071
Meetings:
Taxpayer Advocacy Panels, 8071–8072

International Trade Administration
NOTICES
Antidumping:
Stainless steel butt-weld pipe fittings from—
Taiwan, 7953
Grants and cooperative agreements; availability, etc.:
Worsted Wool Fabrics Program, 7953–7955
North American Free Trade Agreement (NAFTA); binational panel reviews:
Purified carboxymethylcellulose from—
Mexico, 7955

Justice Department
See Antitrust Division
See Drug Enforcement Administration

Labor Department
See Employment and Training Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8018–8019

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Alaska, 8010

National Aeronautics and Space Administration
NOTICES
Inventions, Government-owned; availability for licensing, 8027–8029

National Archives and Records Administration
See Information Security Oversight Office
NOTICES
Agency records schedules; availability, 8029–8031

National Credit Union Administration
RULES
Credit unions:
Organization and operations—
General lending maturity limit and other financial services, 7927–7928

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Rock sole, flathead sole, and other flatfish, 7933
Marine mammals:
Commercial fishing authorizations—
Atlantic Large Whale Take Reduction Plan, 7931–7933
PROPOSED RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
North Pacific Groundfish Observer Program, 7948–7950
NOTICES
Exempted fishing permit applications, determinations, etc., 7955–7956

National Science Foundation
NOTICES
Meetings:
Commission on 21st Century Education in Science, Technology, Engineering, and Mathematics, 8032
Proposal reviews, 8032

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 8032–8033

Postal Regulatory Commission
NOTICES
Meetings; Sunshine Act, 8033

Presidential Documents
EXECUTIVE ORDERS
Defense and national security:
Military Commission; trial of alien unlawful enemy combatants (EO 13425), [**Editorial Note:** This Executive Order, appearing at 72 FR 7737 in the **Federal Register** of February 20, 2007, was incorrectly categorized as a Proclamation in that issue's Table of Contents.]
ADMINISTRATIVE ORDERS
Government agencies and employees:
Trade Representative, United States; designation of officers to act as United States Trade Representative (Memorandum of February 20, 2007), 8083–8086

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange LLC, 8033–8045
NYSE Arca, Inc., 8046–8050
Philadelphia Stock Exchange, Inc., 8051–8054

State Department
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary of State for Educational and Cultural Affairs, 8054

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration

Treasury Department
See Internal Revenue Service

Veterans Affairs Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8073–8074
Grants and cooperative agreements; availability, etc.:
Homeless Providers Grant and Per Diem Program, 8074–8082
Meetings:
Blue Ribbon Panel on VA-Medical School Affiliations, 8082

Former Prisoners of War Advisory Committee, 8082

Separate Parts In This Issue

Part II
Executive Office of the President, Presidential Documents, 8083–8086

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
301 7923

9 CFR
Proposed Rules:
94 7934

12 CFR
611 7927
619 7927
620 7927
621 7927
624 7927
627 7927
630 7927
701 7927

14 CFR
71 7928
Proposed Rules:
39 (3 documents) ... 7934, 7936, 7939

21 CFR
Proposed Rules:
352 7941
1308 7945

26 CFR
54 7929

33 CFR
1 7929

46 CFR
1 7929
10 7929

50 CFR
229 7931
679 7933
Proposed Rules:
679 7948

Rules and Regulations

Federal Register
Vol. 72, No. 35
Thursday, February 22, 2007

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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2006–0170]

Witchweed Quarantine Regulations; Regulated Areas in North Carolina and South Carolina

AGENCY: Animal and Plant Health Inspection Service, USDA

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the list of regulated areas in the witchweed quarantine and regulations by adding or removing areas in North Carolina and South Carolina. These changes affect five counties in North Carolina and two counties in South Carolina. These actions are necessary in order to prevent the artificial spread of witchweed from areas where the weed has been detected and to remove restrictions that are no longer necessary on the interstate movement of regulated articles from areas where witchweed has been eradicated.

DATES: This interim rule is effective February 15, 2007. We will consider all comments that we receive on or before April 23, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0170 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0170, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0170.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Alan V. Tasker, Noxious Weeds Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1237; (301) 734–5708.

SUPPLEMENTARY INFORMATION:

Background

Witchweed (*Striga* spp.) is a parasitic plant that attacks some of the most important crops in the United States (corn, sorghum, sugar cane, and rice), feeding off the roots of its host and causing degeneration. Within the United States, witchweed is only found in parts of North Carolina and South Carolina.

The witchweed quarantine and regulations, contained in 7 CFR 301.80 through 301.80–10 (referred to below as the regulations), quarantine affected areas within the States of North Carolina and South Carolina and restrict the interstate movement of certain articles from regulated areas in those States for the purpose of preventing the spread of witchweed.

Section 301.80–2(a) provides that the Deputy Administrator will designate as regulated areas each quarantined State, or each portion of a quarantined State, in which witchweed has been found, in which there is reason to believe that witchweed is present, or that it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The regulations impose restrictions on the interstate movement of regulated articles from the regulated areas. Regulated areas, which are listed in § 301.80–2a, are designated as either suppressive areas or generally infested areas. Suppressive areas are those portions of the regulated areas where eradication of infestation is undertaken as an objective. Currently, all the regulated areas listed in § 301.80–2a are designated as suppressive areas.

Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed on the interstate movement of regulated articles and (2) the designation of less than the entire State as a regulated area will prevent the interstate spread of witchweed.

Changes to the List of Regulated Areas

In this interim rule, we are amending the list of regulated areas in § 301.80–2a by removing areas in Cumberland, Pender, Robeson, and Sampson Counties, NC, and Horry and Marion Counties, SC, from the list of suppressive areas. We are taking this action because we have determined that witchweed no longer occurs in these areas; therefore, we no longer need to list these areas as suppressive areas for the purpose of preventing the spread of witchweed. This action relieves restrictions on the movement of regulated articles from these areas that are no longer necessary.

In addition to removing areas from the list of regulated areas in § 301.80–2a, we are also adding several areas to the list and revising the descriptions of several areas on the list. Specifically, we are adding 4 farms in Cumberland County, NC, 1 farm in Pender County, NC, 3 farms in Robeson County, NC, 5 farms in Sampson County, NC, 17 farms in Horry County, SC, and 9 farms in Marion County, SC, as suppressive areas. We are also expanding the large suppressive areas in Bladen, Robeson, and Sampson Counties, NC. We are

taking these actions because we have determined that witchweed occurs in these areas; therefore, we need to list these areas as suppressive areas for the purpose of preventing the artificial spread of witchweed. As a result of these actions, the restrictions described in § 301.80–3 of the regulations on the interstate movement of regulated articles from suppressive areas will apply to the movement of regulated articles from the farms we are designating as suppressive areas. The entire regulated area is described in the rule portion of this document.

Immediate Action

Immediate action is necessary to update the list of areas in order to: (1) Relieve restrictions on the interstate movement of regulated articles from areas that are no longer infested with witchweed, and (2) prevent the spread of witchweed from newly infested areas into uninfested areas. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Since 1951, witchweed has been found in 38 counties in North and South Carolina; only 7 counties are currently infested, and witchweed has not been allowed to spread beyond the borders of North Carolina and South Carolina. From 1956 to 2006, the number of infested acres has been reduced from 450,000 to around 2,494, i.e., 2,097 acres in North Carolina and 397 acres in South Carolina (table 1).[1]

TABLE 1.—NEW FARMS DESIGNATED AS SUPPRESSIVE AREAS IN THIS RULE

County	Number of farms	Acreage	Value of production in the county in 2006 ($1,000)
Bladen Co., NC	1	571.3	$5,734
Cumberland Co., NC	5	963.3	2,108
Pender Co., NC	1	4.6	3,085
Robeson Co., NC	3	499.3	11,527
Sampson Co., NC	5	58.5	9,102
North Carolina total	15	2,097	[1] 31,556
Horry Co., SC	17	237.2	4,211
Marion Co., SC	12	159.5	1,462
South Carolina total	29	396.7	[2] 5,673

Source: USDA, NASS, Crop Values, 2005 Summary, Pr 2(06), February 2006; *http://www.nass.usda.gov/QuickStats/Crops,* and "Witchweed Eradication Project Status at the End of 2005," North Carolina Department of Agriculture and Consumer Services.
[1] 16% of State total.
[2] 8.5% of State total.

If witchweed is allowed to spread throughout the United States, it could cause an estimated $1.08 billion in annual control costs plus an additional 10 percent in yield losses for U.S. corn alone.[2] The value of corn production in North Carolina and South Carolina in 2006 was about $264 million. Using these figures, preventing the further spread of witchweed prevents an estimated $39.6 million in costs for North Carolina and South Carolina and an estimated $3.7 billion in costs for the entire United States. In comparison, the costs of controlling witchweed have been relatively low.

Real expenditures ranged from a high of $18.95 million in 1961 to a low of $1.32 million estimated for 2002.

In North Carolina, approximately 73 percent of the costs of control activities are funded by the Federal Government, with the remainder funded by the State. In South Carolina, 100 percent of all control activities are funded by the Federal Government.

Control activities include the use of pre- and post-emergence herbicides to kill witchweed and weed hosts. Agricultural producers with witchweed infestations receive free herbicide applications, which not only get rid of witchweed but also control other weeds throughout the growing season, and free ethylene gas treatments. Ethylene gas is a plant growth promoter that increases yields of cultivated crops.

The witchweed eradication program has had a positive economic impact on agricultural producers with manageable witchweed infestations. Agricultural producers only bear costs associated with the movement of regulated articles from suppressive areas into non-suppressive areas. For example, crops with soil attached after harvesting must be cleaned in order to remove witchweed seeds. In addition, producers moving regulated articles must arrange for inspection to obtain a certificate or limited permit or enter into a compliance agreement, which will allow them to issue certificates and limited permits. Agricultural machinery must also be cleaned and treated prior to movement, but 100 percent of machinery treatment and cleaning expenses are covered by the Federal Government.

Although data were unavailable, quarantine compliance costs borne directly by agricultural producers are apparently very small.

[1] USDA, APHIS, PPQ, Program Aid No. 1783, page 5, and "Witchweed Eradication Project Status at the End of 2005," survey data, David Patterson (personal communication).

[2] Sand, P.F. and J.D. Manley, "The Witchweed Eradication Program, Survey, Regulatory and Control," pp. 141–150 in P.F. Sand, R.E. Eplee, and R.G. Westbrooks [eds.] "Witchweed Research and Control in the United States," Weed Science Society of America, Champaign, IL (1990).

The rule will affect at least 29 entities located within the newly expanded suppressive areas in North Carolina and South Carolina. In the suppressive areas of North Carolina, roughly 15 to 20 percent of the agricultural producers grow corn, 20 to 25 percent grow soybeans, 30 percent grow cotton, and the remaining 25 to 35 percent grow tobacco, sweet potatoes, peanuts, and other crops. We assume a similar mix of crops is produced in the suppressive areas of South Carolina.

The U.S. Small Business Administration (SBA) defines a small agricultural producer as one with annual sales receipts of $750,000 or less. During 2000–2005, 85 percent of the agricultural producers in North Carolina had annual sales of $99,999 or less, and 15 percent had annual sales of $100,000 or more.

We do not know the specific size of these 29 farms. However, based on agricultural State statistics, the majority (i.e., 83 percent) of North Carolina and South Carolina farms had less than $100,000 in annual sales. It is therefore reasonable to assume that the majority of these farms are small according to SBA criteria.

These farms are required to incur quarantine compliance costs. However, the annual reduction in infested acres has undoubtedly benefited growers by reducing control costs and yield losses attributable to witchweed. In addition, discounted benefits for small North Carolina and South Carolina corn producers may be much larger than the discounted costs associated with the program.

Continuing to regulate an area that is not infested with witchweed, therefore, would represent an unnecessary cost on small entities in the area. Similarly, not regulating an area infested with witchweed could jeopardize the future success of a program with a proven and cost-effective track record.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.80–2a, the entries for North Carolina and South Carolina are revised to read as follows:

§ 301.80–2a Regulated areas; generally infested and suppressive areas.

* * * * *

NORTH CAROLINA

(1) *Generally infested areas.* None.

(2) *Suppressive areas.*

Bladen County. That area located north and east of the Cape Fear River.

The Hardison, H.B., farm located on a field road 0.25 mile northwest of its intersection with State Secondary Road 1719 and 0.2 mile west of its intersection with State Secondary Road 1797.

Cumberland County. That area bounded on the west by the Cape Fear River, then by a line running east and northeast along the Fayetteville city limits to U.S. Highway 301, then northeast on U.S. Highway 301 to Interstate 95, then northeast on Interstate 95 to U.S. Highway 13, then east and northeast on U.S. Highway 13 to the Cumberland-Sampson County line.

The Barker, P.R., farm located on the south side of State Secondary Road 2242, 0.2 mile south of Interstate 95 on State Secondary Road 2252.

The Jackson, Ellis, farm located on the west side of State Secondary Road 1003 and 0.4 mile south of its intersection with N.C. Highway 59.

The Lovick, Eugene, farm located on the north side of State Secondary Road 1732 and 0.9 mile west of its intersection with U.S. Highway 301.

The McLaughlin, Cornell, farm located on the south side of State Secondary Road 2221 and 0.2 mile east of its intersection with State Secondary Road 2367.

The Thigpen, William, farm located on the south side of State Secondary Road 2212 and 1 mile west of its intersection with N.C. Highway 87.

Pender County. The Cones Folly farm located along a farm road 2.3 miles south of its intersection with State Secondary Road 1201 and 2.2 miles southeast of its intersection with State Secondary Road 1200.

Robeson County. That area bounded on the west by the Robeson County/Scotland County line; then by a line running east along the Robeson County/Hoke County line to N.C. Highway 211; then southeast on N.C. Highway 211 to the Robeson County/Bladen County line; then south along the Robeson County/Bladen County line and the Robeson County/Columbus County line to U.S. Highway 74; then northwest on U.S. Highway 74 to N.C. Highway 41; then south on N.C. Highway 41 to the South Carolina State line; and then northwest along the South Carolina State line to the Robeson County/Scotland County line. (This area may be more generally described as that part of Robeson County lying south and west of N.C. Highway 211, bounded by U.S. Highway 74 east of N.C. Highway 41 and by the South Carolina line west of N.C. Highway 41.)

The Brown, James, farm located on the south side of a private road known as Reola Drive, 0.1 mile east of its intersection with State Secondary Road 1823, which intersection is 0.7 mile south of the intersection of State Secondary Road 1823 with State Secondary Road 1774.

The Buie, Joshua, farm located on a farm road 0.8 mile south of its intersection with State Secondary Road 1529 and 0.3 mile southwest of the right of way of Interstate Highway 95.

The Lewis, Knox, farm located on the south side of State Secondary Road 1752, 0.5 mile east of its intersection with State Secondary Road 1318.

Sampson County. That area bounded on the north by N.C. Highway 24 and on the east by U.S. Highway 701.

The Brady-Johnson, William, property located on a private road in the town of Salemburg, 0.1 mile north of its

intersection with Church Street and 0.1 mile west of its intersection with N.C. Highway 242.

The Carter, Raeford, farm located on the west side of State Secondary Road 1144, 0.2 mile north of its intersection with State Secondary Road 1143.

The Lucas, June, estate located at the end of State Secondary Road 1496, 1.0 mile northwest of its intersection with State Secondary Road 1233.

The Parker, David, farm located on the northwest side of the intersection of a private road known as David Parker Lane and State Secondary Road 1301, 0.5 mile north of the intersection of State Secondary Road 1301 with N.C. Highway 24.

The Riley, Troy Lee, property located 0.05 mile west of the end of a private road known as Stage Coach Lane, 0.2 mile north of the intersection of Stage Coach Lane and N.C. Highway 24, in the town of Autryville.

SOUTH CAROLINA

(1) *Generally infested areas*. None.

(2) *Suppressive areas*.

Horry County. The Bell, Richard, farm located on the east side of State Highway 90, 5.7 miles north of its intersection with State Highway 22.

The Chestnut, Jacob T., farm located on the west side of an unpaved road known as Short Cut Road, 0.2 mile north of its junction with an unpaved road known as Pint Circle Road, 0.4 mile east of its junction with and 0.8 mile north of its junction with State Highway 90.

The Cribbs, L.V., farm located on the west side of an unpaved road known as Causey Road, 3.3 miles north of its intersection with a secondary road known as Sandplant Road and 2.1 miles west of its intersection with State Highway 76.

The Cribbs, L.V., farm located on the east side of an unpaved road known as Causey Road, 2.8 miles north of its intersection with a secondary road known as Sandplant Road and 2.1 miles west of its intersection with State Highway 76.

The Gerald, Kenneth, farm located on the south side of a secondary highway known as Lake Swamp Road, 0.4 mile east of its intersection with a secondary highway known as Nichols Highway South and 1.6 miles south of its intersection with State Highway 917.

The Gerald, Ravenell, farm located on the north side of an unpaved road known as Farming Dale Road, 0.6 mile north of its junction with State Highway 917 and 1.1 miles east of its intersection with a secondary highway known as Nichols Highway.

The Hammonds, Austin J., farm located on the north side of a secondary road known as Sandplant Road, 1.5 miles west of its intersection with State Highway 76 and 1.7 miles north of its intersection with State Highway 9.

The Livingston, Pittman, farm located on the east side of State Highway 90, 2.2 miles north of its junction with State Highway 22.

The Mae, Blossie, farm located on the west side of an unpaved road known as Dela Road, 0.3 mile south of its intersection with a secondary road known as Pint Circle Road, 0.2 mile west of its intersection with State Highway 90, and 3.5 miles north of its intersection with State Highway 22.

The McDaniel, Ellis, farm located on the south side of State Highway 917, 1.4 miles west of its intersection with a secondary highway known as Nichols Highway.

The Smith, Tommy G., farm located on the south side of a secondary road known as Old Chesterfield Road, 0.5 mile east of its intersection with State Highway 90 and 2.7 miles north of its intersection with State Highway 22.

The Strickland, Quincy, farm located on the north side of State Highway 917, 1.2 miles west of its intersection with a secondary highway known as Nichols Highway.

The Stroud, J.B., farm located on the east side of an unpaved road known as Providence Drive, 1.3 miles north of its junction with an unpaved road known as Tranquil Road, 0.5 mile west of its junction with a secondary highway known as Nichols Highway North and 2.3 miles north of its intersection with State Highway 917.

The Vault, Bennie, farm located on the west side of an unpaved road known as Strawberry Road, 0.5 mile south of its junction with State Highway 90.

Vereen, Isiah, farm located on the west side of an unpaved road known as West Shore Road, 1.6 miles south of its junction with State Highway 90.

Vereen, Lula, farm located on the north side of a secondary road known as Dogwood Road, 1.6 miles north of its intersection with State Highway 22, then 0.7 mile east of its intersection with State Highway 90.

The Willoughby, Shane, farm located on the north side of an unpaved road known as Farming Dale Road, 0.4 mile north of its junction with State Highway 917 and 1.1 miles east of its intersection with a secondary highway known as Nichols Highway.

The Worley, Floyd C., farm located on both sides of a secondary road known as Sandplant Road, 1.1 miles west of its intersection with State Highway 76 and 1.7 miles north of its intersection with State Highway 9.

Marion County. The Baxley, Warner, farm located on the west side of Penderboro Road, 1.6 miles north of its intersection with the State Highway 501 Bypass.

The Best Woods Road and Bubba Road farm located on both sides of Best Woods Road, 1.4 miles south of its intersection with State Highway 76.

The Erwin, Harold, farm located on the west side of the State secondary road known as Laughin Road, 1 mile north of its intersection with State Highway 76.

The Gerald, Issaic, farm located on the west side of a secondary road known as Foxworth Road, 0.3 mile northwest of its intersection with Secondary Road 9.

The Holmes, Issaic, farm located on the east side of an unpaved road known as Phill Road, 0.5 mile south of its junction with State Highway 9 and 5 miles east of its intersection with State Highway 41–A.

The Johnson, J. D., farm located on the west side of an unpaved road known as Harold Road, 0.6 mile north of its intersection with Old Mullins Road and 1.3 miles west of its intersection with North Main Street in Nichols.

The Keen, Davis, Estate farm located on the south side of an unpaved road known as Frazier Road, 0.7 mile northwest of its intersection with Secondary Road 9.

The Porter, Hubert, farm located on the south side of an unpaved road known as Bubba Road, 1.3 miles south from its intersection with State Highway 76.

The Richardson, Billy, farm located on the east side of Secondary Road 908, 0.8 mile north of its intersection with State Highway 378.

The Rogers, Paul, farm located on the north side of an unpaved road known as Tobacco Barn Road, 0.8 mile west of its intersection with a State secondary road known as E. Sellers Road and 1.7 miles north of its intersection with State Highway 41–A.

Done in Washington, DC, this 15th day of February 2007.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–3013 Filed 2–21–07; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 619, 620, 621, 624, 627, and 630

RIN 3052–AC11

Organization; Definitions; Disclosure to Shareholders; Accounting and Reporting Requirements; Regulatory Accounting Practices; Title IV Conservators, Receivers, and Voluntary Liquidations; and Disclosure to Investors in System-Wide and Consolidated Bank Debt Obligations of the Farm Credit System; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 611, 619, 620, 621, 624, 627, and 630 on December 20, 2006 (71 FR 76111). This final rule amends our disclosure and reporting regulations for Farm Credit System (System) institutions by clarifying and enhancing existing disclosures and reporting to System shareholders and investors. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is February 16, 2007.

EFFECTIVE DATES: The regulation amending 12 CFR parts 611, 619, 620, 621, 624, 627, and 630, published on December 20, 2006 (71 FR 76111) is effective February 16, 2007.

FOR FURTHER INFORMATION CONTACT:

Thomas Dalton, Senior Staff Accountant, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434;

or

Laura McFarland, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

(12 U.S.C. 2252(a)(9) and (10))

Dated: February 16, 2007.

Roland E. Smith,

Secretary Farm Credit Administration Board.

[FR Doc. E7–3055 Filed 2–21–07; 8:45 am]

BILLING CODE 6705–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AD30

General Lending Maturity Limit and Other Financial Services

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its rules to implement amendments to the Federal Credit Union Act (FCU Act) made by the Financial Services Regulatory Relief Act of 2006 (Reg Relief Act). The final rule revises the maturity limit in the general lending rule and permits federal credit unions to provide certain, limited financial services to nonmembers within their fields of membership.

DATES: This final rule is effective March 26, 2007.

FOR FURTHER INFORMATION CONTACT:

Moisette Green, Staff Attorney, Office of General Counsel, at the above address or telephone: *(703) 518–6540.*

SUPPLEMENTARY INFORMATION:

A. Background

In October 2006, Congress enacted the Reg Relief Act, which amended the general lending maturity limit for federal credit unions (FCUs) from 12 years to 15 years in § 107(5) of the FCU Act as well as § 107(12) of the FCU Act to permit FCUs to provide certain financial services to persons within their fields of membership. Pub. L. 109–351, §§ 502–503, 120 Stat. 1966 (2006). On October 19, 2006, the NCUA Board issued an interim final rule to implement these provisions of the Reg Relief Act. 71 FR 62875 (October 27, 2006). Even though the provisions of the interim final rule became effective on October 27, 2006, the Board issued the interim final rule with a 60-day comment period.

B. The Final Rule

NCUA received eight comments on the interim final rule from federal credit unions and trade associations. All the commenters supported the interim final rule, and some provided additional comments. Two commenters encouraged NCUA to seek a longer maturity limit for loans on investment property. While the NCUA Board generally supports greater flexibility for permissible terms for investment loans, the suggestion is beyond the scope of NCUA's statutory authority and the interim rulemaking.

Four commenters requested clarification on whether FCUs may charge a fee for selling negotiable checks, travelers checks, money orders, and other similar money transfer instruments under § 701.30(a). Two commenters pointed out that § 701.30(b) specifically permits FCUs to charge a fee for cashing negotiable or money transfer instruments.

FCUs may charge a fee for ''selling'' money transfer instruments, and specifically providing that FCUs may charge a fee for ''cashing'' money transfer instruments does not limit that authority. The Reg Relief Act does not restrict the terms under which an FCU can sell negotiable instruments to a person within its field of membership, and the legislative history does not indicate that Congress intended the provision to have any special meaning. Therefore, the common understanding and meaning of the term ''sell'' in § 503 of the Reg Relief Act and § 701.30(a) of the rule apply. Selling, by definition, involves the transfer of goods or rendering services for a price. *See, Random House Unabridged Dictionary* 1739 (2d ed. 1993). Contrary to selling a money transfer instrument, ''cashing'' an instrument involves the exchange of the instrument for money in the amount reflected on the face of the instrument, and the term does not necessarily mean a fee for the service is permitted. FCUs have always had authority to cash a check drawn on a member's account regardless of the payee's membership status as this is a service to the member-drawer; the Reg Relief Act permits FCUs to cash a check payable to a nonmember within their field of membership even if the drawer is not a member. The specific provision in the Reg Relief Act and the rule to charge a fee for this exchange permits FCUs to collect a payment for providing the check cashing service. Additionally, FCUs are not required to charge persons for financial services under section 503 of the Reg Relief Act or the rule, but ''may'' sell or charge a fee for them.

Three commenters suggested NCUA define the term ''electronic funds transfer.'' The commenters stated the interim final rule was unclear on whether the term ''electronic funds transfer'' had the same definition as in Regulation E, 12 CFR part 205, or the term ''transmittal of funds'' under the anti-money laundering regulations, 31 CFR part 103. The Board believes it is unnecessary to define ''electronic funds transfer'' in this rule for two reasons. First, the term ''electronic funds transfer'' is defined in the Electronic Funds Transfer Act and Regulation E. 15 U.S.C. 1693a(6); 12 CFR 205.3. Second,

the types of money transfer instruments permissible under § 701.30 are not limited to electronic funds transfers. The rule permits an FCU to cash or sell checks, money orders, and other similar money transfer instruments. While the rule does not contain an exhaustive list of permissible money transfer instruments, it specifically includes electronic funds transfers. To the extent FCUs provide money transfer instruments that fall within the definition of electronic funds transfer under Regulation E, they must, of course, comply with Regulation E requirements.

The Board notes that electronic funds transfers under Regulation E are excluded from the definition of ''transmittal of funds'' in the Department of Treasury's anti-money laundering regulations. 31 CFR part 103. This definition, however, does not affect FCU authority to provide wire transfers under § 701.30. FCUs providing wire transfer services and electronic funds transfers under § 701.30 must comply with the applicable requirements of 31 CFR part 103.

Two commenters requested NCUA provide guidance regarding FCU compliance with other statutes and regulations, e.g. the Bank Secrecy Act (Pub. L. 91–508), the Customer Identification Program regulation (31 CFR 103.121), NCUA security rules (12 CFR part 748), financial privacy rules (12 CFR part 716), and so forth. One of these commenters recommended NCUA establish a working group to discuss compliance requirements associated with FCUs providing financial services to nonmembers within their fields of membership. The Board believes additional guidance or a working group is unnecessary because this rule does not create any additional requirements for FCUs than there are for other financial institutions. The Board only cautions FCUs to ensure they comply with all applicable statutory or regulatory requirements if they elect to provide financial services to persons with whom the FCUs may have infrequent or irregular contact.

Finally, one commenter correctly noted the interim final rule failed to make a conforming change to the 12-year maturity limit in the current rule regarding due-on-sale clauses. 12 CFR 701.21(g)(6)(ii). Accordingly, the final rule revises this reference to reflect the change in the general lending maturity limit to 15 years.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small credit unions, defined as those under ten million dollars in assets. This rule clarifies and improves the available services FCUs may provide to their members and persons within their fields of membership, without imposing any regulatory burden. The final amendments do not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget. 44 U.S.C. 3501 *et seq.*; 5 CFR part 1320.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule would not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121 (SBREFA), provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this final rule is not a major rule for purposes of SBREFA.

List of Subjects in 12 CFR Part 701

Check, Check cashing, Credit, Credit unions, Electronic funds transfer, Money order, Money transfer.

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 701 as set forth below.

By the National Credit Union Administration Board on February 15, 2007.

Mary F. Rupp,

Secretary of the Board.

■ Accordingly, the interim rule amending 12 CFR part 701, which was published at 71 FR 62875 on October 27, 2006, is adopted as a final rule with the following change:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; Title V, Pub. L. 109–351; 120 Stat. 1966.

■ 2. Amend Section 701.21 by removing ''greater than twelve years'' in the first sentence and adding in its place ''greater than fifteen years'' in paragraph (g)(6)(ii).

[FR Doc. E7–2902 Filed 2–21–07; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25941; Airspace Docket No. 06–ACE–11]

Modification of Class E Airspace; Creston, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Creston, IA.

EFFECTIVE DATE: 0901 UTC, March 15, 2007.

FOR FURTHER INFORMATION CONTACT: Grant Nichols, System Support, DOT

Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2522.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 28, 2006 (71 FR 78054). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 15, 2007. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Fort Worth, Texas, on February 6, 2007.

Ronnie Uhlenhaker,

Manager, System Support Group, ATO Central Service Area.

[FR Doc. 07–777 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 9298]

RIN 1545–AY32

Nondiscrimination and Wellness Programs in Health Coverage in the Group Market; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains correction to final regulations (TD 9298) that were published in the **Federal Register** on Wednesday, December 13, 2006 (71 FR 75014) governing the provisions prohibiting discrimination based on a health factor for group health plans and issuers of health insurance coverage offered in connection with a group health plan.

DATES: The correction is effective February 12, 2007.

FOR FURTHER INFORMATION CONTACT: Russ Weinheimer, (202) 622–6080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 9802 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9298) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 54 is corrected by making the following correcting amendments:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 continues to read, in part, as follows:

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

■ **Par. 2.** Section 54.9802–1(b)(2)(i)(D) is amended by revising paragraph (ii) of *Example 4.*

■ **Par. 3.** Section 54.9802–1(f)(1) is amended by revising the first sentence of the paragraph.

The revisions read as follows:

§ 54.9802–1 Prohibiting discrimination against participants and beneficiaries based on a health factor.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(D) * * *

Example 4. * * *

(i) * * *

(ii) *Conclusion.* In this *Example 4,* the limit does not violate this paragraph (b)(2)(i) because $2,000 of benefits for the treatment of TMJ are available uniformly to all similarly situated individuals and a plan may limit benefits covered in relation to a specific disease or condition if the limit applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries. (This example does not address whether the plan provision is permissible under the Americans with Disabilities Act or any other applicable law.)

* * * * *

(f) * * *

(1) If none of the conditions for obtaining a reward under a wellness program are based on an individual satisfying a standard that is related to a health factor (or if a wellness program does not provide a reward), the wellness program does not violate this section, if participation in the program is made available to all similarly situated individuals. * * *

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E7–2958 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 1; 46 CFR Parts 1 and 10

[USCG–2006–25535]

RIN 1625–ZA09

Mariner Licensing and Documentation Program Restructuring and Centralization; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting Amendment.

SUMMARY: The Coast Guard is correcting a technical amendment that appeared in the **Federal Register** on August 21, 2006. That technical amendment authorized the Commanding Officer of the National Maritime Center (NMC) to perform certain mariner credentialing functions in addition to Officers in Charge, Marine Inspection, who currently perform those functions. At the end of a transitional period, most credentialing functions will be consolidated at a centralized location. The technical amendment also made technical changes to the mariner credentialing appellate process.

DATES: These changes are effective March 26, 2007.

FOR FURTHER INFORMATION CONTACT: If you have questions on this amendment, call Mr. Gerald Miante, Project Manager, Maritime Personnel Qualifications Division (CG–3PSO–1), U.S. Coast Guard, telephone 202–372–1407. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard is correcting a technical amendment that appeared in the **Federal Register** on August 21, 2006 (71 FR 48480). That technical amendment authorized the Commanding Officer of the NMC to

perform certain mariner credentialing functions in addition to Officers in Charge, Marine Inspection, who currently perform those functions. At the end of a transitional period, most credentialing functions will be consolidated at a centralized location. The technical amendment also made technical changes to the mariner credentialing appellate process. The technical amendment, and this correcting amendment, are organizational in nature and will have no substantive effect on the regulated public.

This correction clarifies the authority of the Commanding Officer of the NMC to carry out certain maritime safety functions; and reestablishes procedures for appeal of decisions of the National Vessel Documentation Center with a revised appellate authority.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

■ Accordingly, 33 CFR part 1, and 46 CFR parts 1 and 10 are corrected by making the following correcting amendments:

33 CFR PART 1—GENERAL PROVISIONS

■ 1. Revise the authority citation for subpart 1.01 to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; Department of Homeland Security Delegation No. 0170.1; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

■ 2. In § 1.01–20, designate the existing paragraph as paragraph (a); revise the first sentence of newly designated paragraph (a); and add paragraph (b) to read as follows:

§ 1.01–20 Officer in Charge, Marine Inspection.

(a) Officers in Charge, Marine Inspection (OCMI), have been designated and delegated to perform, within each OCMI's jurisdiction, the following functions: * * *

(b) The Commanding Officer of the National Maritime Center has been designated and delegated the same authority as an OCMI for the purpose of carrying out the following marine safety functions pursuant to the provisions of 46 CFR Subchapter B:

(1) Licensing, credentialing, certificating, shipment and discharge of seamen;

(2) Referring to the processing Regional Examination Center (REC) or cognizant OCMI potential violations of law, negligence, misconduct, unskillfulness, incompetence or misbehavior of persons holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard, and recommending suspension or revocation under 46 U.S.C. Chapter 77 when deemed appropriate; and

(3) Granting, withholding, suspending, or withdrawing course approvals.

46 CFR PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

■ 3. The authority citation for 46 CFR part 1 continues to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub.L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

■ 4. In § 1.01–15, revise paragraphs (c) and (d) and add paragraphs (e) and (f) to read as follows:

§ 1.01–15 Organization; Districts; National Maritime Center.

* * * * *

(c) The Commanding Officer of the National Maritime Center has been designated and delegated to:

(1) Give direction to Coast Guard activities relating to marine safety functions consisting of the licensing, credentialing, certificating, shipment and discharge of seamen;

(2) Refer to the processing Regional Examination Center (REC) or cognizant OCMI potential violations of law, negligence, misconduct, unskillfulness, incompetence or misbehavior of persons holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard, and recommend suspension or revocation under 46 U.S.C. Chapter 77 when deemed appropriate; and

(3) Grant, withhold, suspend, or withdraw course approvals.

(d) The Commanding Officer of the National Maritime Center has the same authority as an OCMI for the purpose of carrying out the marine safety functions listed in paragraph (c) of this section pursuant to the provisions of Subchapter B of this chapter.

(e) Applicants for merchant mariner's documents, licenses, certificates or credentials may apply to the Coast Guard National Maritime Center or any of the Regional Examination Centers. Applicants may contact the National Maritime Center at 4200 Wilson Boulevard, Suite 630, Arlington, Virginia 22203–1804, or by telephone at 202–493–1002. A list of Regional Examination Locations is available through the Coast Guard Web site at *http://www.uscg.mil.*

(f) For descriptions of Coast Guard districts and marine inspection zones, see 33 CFR part 3.

■ 5. In § 1.03–15, revise paragraph (h)(3) to read as follows:

§ 1.03–15 General.

* * * * *

(h) * * *

(3) Commandant (CG–3PC) for all appeals involving suspension or withdrawal of course approvals, all marine personnel issues appealed from the National Maritime Center or from an OCMI through a District Commander, and all appeals regarding the documentation of a vessel under part 67 or part 68 of this title. All appeals regarding the documentation of a vessel under part 67 or part 68 of this title must be addressed to Commandant CG–3PC(d), Coast Guard Headquarters, 2100 Second St., SW, Washington, DC 20593, and a copy of each such appeal must be sent to the National Vessel Documentation Center, 792 T J Jackson Drive; Falling Waters, WV 25419;

* * * * *

■ 6. Redesignate § 1.03–45 as § 1.03–40, and add new § 1.03–45 to read as follows:

§ 1.03–45 Appeals from decisions or actions involving documentation of vessels.

Any person directly affected by a decision or action of an officer or employee of the Coast Guard acting on or in regard to the documentation of a vessel under part 67 or part 68 of this title, may make a formal appeal of that decision or action to the Director of Inspection and Compliance, Commandant (CG–3PC), in accordance with the procedures contained in § 1.03–15 of this subpart. The decision of the Director of Inspection and

Compliance, Commandant (CG–3PC), on such an appeal will constitute final agency action.

46 CFR PART 10—LICENSING OF MARITIME PERSONNEL

■ 7. The authority citation for 46 CFR part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, and 8906; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 8. In Part 10, redesignate §§ 10.102 and 10.103 as §§ 10.103 and 10.104, respectively, and add new § 10.102 to read as follows:

§ 10.102 National Maritime Center

The Commanding Officer of the National Maritime Center has the same authority as an OCMI for the purpose of carrying out the marine safety functions listed in § 1.01–15(c) of this title pursuant to the provisions of this subchapter.

Dated: February 14, 2007.

Stefan G. Venckus,

Chief, Office of Regulations, and Administrative Law, United States Coast Guard.

[FR Doc. E7–2899 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–7038–41; I.D. 021407E]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,245 nm² (4,270 km²)in February and approximately 387 nm² (1,327 km²)in March, southeast of Boston, MA, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours February 26, 2007, through 2400 hours March 12, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm² (139 km²)) such that right whale density is equal to or greater than 0.04 right whales per nm² (1.85 km²). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On February 11, 2007, an aerial survey reported a sighting of three right whales in the proximity 41°54′ N. lat. and 69°46′ W. long. This position lies southeast of Boston, MA. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during

the 15-day restricted period unless it is modified in the manner described in this temporary rule. In February, the DAM Zone is bound by the following coordinates:

42°14′ N., 70°13′ W. (NW Corner)
42°14′ N., 69°20′ W.
41°35′ N., 69°20′ W.
41°35′ N., 69°59′ W. and follow the coastline north to
42°05′ N., 70°13′ W.
42°14′ N., 70°13′ W. (NW Corner)

In March, the DAM zone overlaps SAM West, and is bounded by the following coordinates:

42°14′ N., 69°24′ W. (NW Corner)
42°14′ N., 69°20′ W.
41°35′ N., 69°20′ W.
41°35′ N., 69°59′ W. and follow the coastline north to
41°45′ N., 69°56′ W.
41°45′ N., 69°33′ W.
41°49′ N., 69°24′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: A portion of this DAM zone overlaps with the Northeast multispecies seasonal Gulf of Maine Rolling Closure Area I for found at 50 CFR 648.81(f)(1)(i) and the Harbor Porpoise Massachusetts Bay Closure Area found at 50 CFR 229.33(a)(4). Due to these closures, sink gillnet gear is prohibited from these portions of the DAM zone during March.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters and Stellwagen Bank/Jeffreys Ledge that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area and Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;
5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and
6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours February 26, 2007, through 2400 hours March 12, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good

cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3).

Dated: February 16, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 07–797 Filed 2–16–07; 2:52 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 021607B]

Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and ''Other Flatfish'' by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing directed fishing for the rock sole, flathead sole, and ''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 17, 2007, through 1200 hrs, A.l.t., April 1, 2007.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 first seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI is 448 metric tons as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the first seasonal allowance of the 2007 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI has been caught. Consequently, NMFS is closing directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the BSAI.

''Other flatfish'' includes Alaska plaice, as well as all other flatfish species except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, flathead sole, and arrowtooth flounder.

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 closure of directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 15, 2007.

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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: February 16, 2007.

James P. Burgess,

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

[FR Doc. 07–796 Filed 2–16–07; 2:52 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 35
Thursday, February 22, 2007

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

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2006–0104]

Classical Swine Fever Status of the Mexican State of Nayarit; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: We are correcting an error in our proposed rule to amend the regulations for importing animals and animal products by adding the Mexican State of Nayarit to the list of regions considered free of classical swine fever (CSF). We would also add Nayarit to the list of CSF-free regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF. The proposed rule was published in the **Federal Register** on January 31, 2007 (72 FR 4463–4467, Docket No. APHIS 2006–0104).

FOR FURTHER INFORMATION CONTACT: Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services–Import, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION: On January 31, 2007, we published in the **Federal Register** (72 FR 4463–4467, Docket No. APHIS–2006–0104) a proposed rule to amend the regulations for importing animals and animal products by adding the Mexican State of Nayarit to the list of regions considered free of classical swine fever (CSF). We would also add Nayarit to the list of CSF-free regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF.

In the summary of the proposed rule, and in the supplementary information under the heading ''Executive Order 12866 and Regulatory Flexibility Act,'' we stated that we would add Nayarit to the list of CSF-affected regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF. This information was incorrect. We are proposing to recognize the State of Nayarit as free of this disease, so it should have read that we would add the State to the list of CSF-free regions to which those requirements apply. This document corrects these errors.

Correction

In FR Doc. E7–1530, published on January 31, 2007 (72 FR 4463–4467) make the following corrections: On page 4463, under Summary, third sentence, and on page 4466, first column, first full sentence, correct ''CSF-affected'' to read ''CSF-free''.

Done in Washington, DC, this 15th day of February 2007.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–3012 Filed 2–21–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27269; Directorate Identifier 2006–NM–207–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain EMBRAER Model ERJ 170 airplanes. This proposed AD would require installing updated software revisions and, as applicable, doing concurrent actions. This proposed AD results from a report of an error in the implementation procedure of the Primus Epic digital software platform, which could result in improper functioning of certain flight systems. Further, current revisions of the Primus Epic software may cause blinking of all cockpit flight displays. We are proposing this AD to prevent improper functioning of certain flight systems and blinking of cockpit flight displays, which could lead to increased pilot workload during critical phases of flight.

DATES: We must receive comments on this proposed AD by March 26, 2007.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.

Fax: (202) 493–2251.

Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–27269; Directorate Identifier 2006–NM–207–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic,

environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on certain EMBRAER Model ERJ 170 airplanes. The ANAC advises of a reported error in the implementation procedure of the Primus Epic digital software platform, which may lead to an ineffective power-up built-in test (PBIT) of certain fly-by-wire (FBW), autoflight, and avionics system functions, which could result in improper functioning of those systems. Further, current Primus Epic software revisions may cause blinking of all cockpit flight displays. This condition, if not corrected, could lead to increased pilot workload during critical phases of flight.

Relevant Service Information

EMBRAER has issued Service Bulletin 170–31–0013, Revision 01, dated January 13, 2006. The service bulletin describes procedures for installing Primus Epic software part number (P/N) PS7027709–00113 (load version 17.3). For airplanes equipped with a lightning sensor system (LSS) and software load version 15.3 or 15.4, the installation includes doing certain wiring revisions of the LSS connector. For airplanes that have received all described software upgrades in accordance with EMBRAER Service Bulletin 170–31–0013, dated December 17, 2005, an additional action is described by Service Bulletin 170–31–0013, Revision 01. The additional action includes installing a new, upgraded loadable diagnostic information (LDI) database.

The ANAC mandated the service information and issued Brazilian airworthiness directive 2006–06–01, effective June 28, 2006, to ensure the continued airworthiness of these airplanes in Brazil.

For certain airplanes, EMBRAER Service Bulletin 170–31–0013, Revision 01, specifies prior or concurrent accomplishment of certain actions specified in EMBRAER Service Bulletin 170–73–0001, dated September 13, 2005, and Revision 01, dated September 23, 2005. These actions include installing full-authority digital engine-control (FADEC) software version V5.20.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Clarification of Requirements

The ANAC airworthiness directive 2006–06–01 does not specifically state that prior or concurrent installation of FADEC software version V5.20 is required. However, to ensure proper correction of the unsafe condition, this proposed AD would require accomplishing this concurrent action. EMBRAER Service Bulletin 170–31–0013, Revision 01, describes EMBRAER Service Bulletin 170–73–0001 as the appropriate source of service information for doing the concurrent action. This difference has been coordinated with the ANAC.

Interim Action

We consider this proposed AD interim action. The manufacturer is developing a modification that will further address the unsafe condition identified in this proposed AD. Once this modification is approved and available, we may consider additional rulemaking.

Costs of Compliance

This proposed AD would affect about 68 airplanes of U.S. registry. Software upgrades would be provided by the manufacturer at no charge to operators, and parts for wiring changes would be provided from operator stores. The following table provides the estimated costs for U.S. operators to comply with this proposed AD at an average labor rate of $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Cost per airplane	Fleet cost
Install software	Between 5 and 6	Between $400 and $480	Between $27,200 and $32,640.
Revise wiring	1	$80	Up to $5,440.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2007–27269; Directorate Identifier 2006–NM–207–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by March 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 170–31–0013, Revision 01, dated January 13, 2006.

Unsafe Condition

(d) This AD results from a report of an error in the implementation procedure of the Primus Epic digital software platform, which could result in improper functioning of certain flight systems. Further, current revisions of the Primus Epic software may possibly cause blinking of all cockpit flight displays. We are issuing this AD to prevent improper functioning of certain flight systems and blinking of cockpit flight displays, which could lead to increased pilot workload during critical phases of flight.

Compliance

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

Inspection for Software Identification

(f) Within 30 days after the effective date of this AD, inspect to determine the part number (P/N) of the Primus Epic software and the upgrade version number of the full-authority digital engine-control (FADEC) software installed on the airplane.

Software Installation and Concurrent Actions

(g) Within the compliance time specified in paragraph (g)(1) or (g)(2) of this AD, as applicable, install Primus Epic P/N PS7027709–00113 (load version 17.3) and do applicable wiring revisions; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–31–0013, Revision 01, dated January 13, 2006.

(1) For airplanes equipped with software having P/N PS7027709–00108 (load version 15.3), P/N PS7027709–00109 (load version 15.4), or P/N PS7027709–00110 (load version 15.5): Within 30 days after the effective date of this AD.

(2) For airplanes equipped with software having P/N PS7027709–00106 (load version 17.1) or P/N PS7027709–00112 (load version 17.2.02): Within 120 days after the effective date of this AD.

Concurrent Actions

(h) For airplanes which do not have FADEC software upgrade version V5.20 installed at the time of the inspection required by paragraph (f) of this AD: Prior to or concurrently with the installation required by paragraph (g) of this AD, install FADEC software upgrade version V5.20 as specified in EMBRAER Service Bulletin 170–73–0001, dated September 13, 2005; or Revision 01, dated September 23, 2005.

Actions Accomplished According to Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to EMBRAER Service Bulletin 170–31–0013, dated December 17, 2005, are considered acceptable for compliance with paragraph (g) of this AD; except that, for airplanes identified in paragraph 1D., ''Additional Action,'' of EMBRAER Service Bulletin 170–31–0013, Revision 01, dated January 13, 2006, the additional action specified in Service Bulletin 170–31–0013, Revision 01, must be done as required by this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) Brazilian airworthiness directive 2006–06–01, effective June 28, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on February 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2980 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27268; Directorate Identifier 2006–NM–190–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 airplanes. This proposed AD would require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 26, 2007.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–27268; Directorate Identifier 2006–NM–190–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

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

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

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, notified us that an unsafe condition may exist on all Airbus Model A318, A319, A320, and A321 airplanes. The EASA advises that Airbus has issued new fuel airworthiness limitations (FALs) to address failure conditions for which an unacceptable probability of ignition risk could exist if specific tasks or practices or both are not performed in accordance with the manufacturer's requirements. The new FALs are intended to satisfy the JAA's Interim Policy of Fuel Tank Safety and SFAR 88 requirements.

Relevant Service Information

Airbus has issued A318/A319/A320/A321 ALS—Airworthiness Limitations Section, dated February 28, 2006, which is a repository for stand-alone documents that are approved independently from each other. The Airbus ALS comprises the following documents:

- ALS Part 1—Safe Life Airworthiness Limitation Items.
- ALS Part 2—Damage-Tolerant Airworthiness Limitation Items.
- ALS Part 3—Certification Maintenance Requirements.
- ALS Part 4—(Reserved).
- ALS Part 5—Fuel Airworthiness Limitations.

Airbus ALS Part 5—Fuel Airworthiness Limitations, dated February 28, 2006, refers to Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 14, 2006). Section 1, ''Maintenance/Inspection Tasks,'' of Document 95A.1931/05 describes certain FAL inspections, which are periodic inspections of certain features for latent failures that could contribute to an ignition source. Section 2, ''Critical Design Configuration Control Limitations,'' of Document 95A.1931/05 identifies critical design configuration control limitations (CDCCLs). A CDCCL is a limitation requirement to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0203, dated July 11, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. As described in FAA Order 8100.14A, ''Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness,'' dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Costs of Compliance

This proposed AD would affect about 720 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $115,200, or $160 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2007–27268; Directorate Identifier 2006–NM–190–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by March 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections and critical design configuration control limitations (CDCCLs). Compliance with the operator maintenance documents is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections and CDCCLs, the operator may not be able to accomplish inspections and CDCCLs described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i) of this AD. The request should include a description of changes to the required inspections and CDCCLs that will preserve the critical ignition source prevention feature of the affected fuel system.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Revise Airworthiness Limitations Section (ALS) To Incorporate Fuel Maintenance and Inspection Tasks

(f) Within 3 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A318/A319/A320/A321 ALS Part 5—Fuel Airworthiness Limitations, dated February 28, 2006, as defined in Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005 (approved by the European Aviation Safety Agency (EASA) on March 14, 2006), Section 1, ''Maintenance/Inspection Tasks.'' For all tasks identified in Section 1 of Document 95A.1931/05, the initial compliance times start from the effective date of this AD and must be accomplished within the repetitive interval specified in Section 1 of Document 95A.1931/05.

Revise ALS To Incorporate CDCCLs

(g) Within 12 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A318/A319/A320/A321 ALS Part 5—Fuel Airworthiness Limitations, dated February 28, 2006, as defined in Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 14, 2006), Section 2, ''Critical Design Configuration Control Limitations.''

No Alternative Inspections, Inspection Intervals, or CDCCLs

(h) Except as provided by paragraph (i) of this AD: After accomplishing the actions specified in paragraphs (f) and (g) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(j) EASA airworthiness directive 2006–0203, dated July 11, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on February 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2977 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27302; Directorate Identifier 2006–NM–273–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas DC–10–30 and DC–10–30F (KC–10A and KDC–10) Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes. This proposed AD would require installing Teflon sleeving around the fuel pump wire harness inside the conduit in the aft supplemental fuel tank. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by April 9, 2007.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–27302; Directorate Identifier 2006–NM–273–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings,

we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews. In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

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

We have received a report indicating that fuel leaked from the No. 1 main fuel tank boost pump electrical conduit into the fuel shroud drain system, on a Model DC–10–30 airplane. The airplane had accumulated about 25,000 total flight hours. Investigation revealed that electrical arcing between chafed wiring and the inside of the conduit wall caused a hole in the conduit. Fuel then leaked into the conduit through the hole from the fuel tank. This condition, if not prevented, could result in the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

We have reviewed McDonnell Douglas DC–10 Service Bulletin 24–128, dated January 19, 1984. The service bulletin describes procedures for installing Teflon sleeving around the fuel pump wire harness inside the conduit in the aft supplemental fuel tank. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

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

Difference Between the Proposed AD and Service Bulletin

The service bulletin recommends accomplishing the modification within 34,000 flight hours after installing the supplemental fuel tank. When the service bulletin was issued in 1984, we did not have a safety concern that warranted AD action. However, the service bulletin was re-evaluated as part of the SFAR 88 review activity. We determined that AD action is warranted. From that review, we also determined that the recommended compliance time should be re-examined. Boeing subsequently recommended a 60-month compliance time, which is consistent with the compliance time recommended in similar Boeing service bulletins. In developing an appropriate compliance time for this AD, we considered the typical utilization of the affected airplanes, the degree of urgency associated with the subject unsafe condition, and the time necessary to perform the modification (2 hours). In light of all of these factors, we find that a 60-month compliance time represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Costs of Compliance

There are about 5 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 5 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. The cost of required parts is negligible. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $800, or $160 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2007–27302; Directorate Identifier 2006–NM–273–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 9, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) airplanes, certificated in any category; as identified McDonnell Douglas DC–10 Service Bulletin 24–128, dated January 19, 1984.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Modification

(f) Within 60 months after the effective date of this AD, install Teflon sleeving around the fuel pump wire harness inside the conduit in the aft supplemental fuel tank, in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 24–128, dated January 19, 1984.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on February 13, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2975 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 352

[Docket No. 2006N–0479]

RIN 0910–AF43

Insect Repellent-Sunscreen Drug Products for Over-the-Counter Human Use; Request for Information and Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for data and information.

SUMMARY: The Food and Drug Administration (FDA) is seeking information to formulate a regulatory position on insect repellent products that contain over-the-counter (OTC) sunscreen ingredients. FDA is considering amending its monograph for OTC sunscreen drug products (the regulation that establishes conditions under which these drug products are generally recognized as safe and effective and not misbranded) to add conditions for marketing insect repellent-sunscreen drug products. The insect repellent ingredients in these products are regulated by the Environmental Protection Agency (EPA). Elsewhere in this issue of the **Federal Register** is a companion document in which EPA is also requesting information and comments on these products. The decision on what regulations, if any, to propose will be based, in part, on information and comments submitted in response to this request for data and information.

DATES: Submit written or electronic comments by May 23, 2007.

ADDRESSES: You may submit comments, identified by Docket No. 2006N–0479 or RIN 0910–AF43, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and Docket No. and Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Matthew R. Holman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, MS 5411, Silver Spring, MD 20993, 301–796–2090.

SUPPLEMENTARY INFORMATION:

I. Background

A. Description of Insect Repellent-Sunscreen Drug Products

FDA and EPA are seeking information to formulate a regulatory position for combination insect repellent-sunscreen drug products for use on human skin. Because sunscreen drug products are regulated by FDA and the insect repellent components of these products are separately regulated by EPA, both agencies are seeking comments to

determine how these combination products should be regulated.

Currently, approximately 20 combination insect repellent-sunscreen drug products are available for consumers. These products consist of one of three insect repellents (N,N-diethyl-meta-toluamide (DEET), oil of citronella, or IR3535) and a sunscreen component (one or more sunscreen ingredients). Combination insect repellent-sunscreen drug products are available in lotion, cream, and spray-on formulations and are currently marketed for use by the entire family. Due to concerns about the potential conflict in the directions for use and other labeling requirements for the insect repellent and the sunscreen components of the product, EPA postponed a regulatory decision on combination DEET/sunscreen products in its Reregistration Eligibility Decision (RED) for DEET (December 1998) until additional information could be obtained. This document solicits opinion and comment from the public to assist both agencies in regulating these products.

B. Regulatory Status of the Insect Repellent Ingredients

EPA regulates insect repellents under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Three insect repellent active ingredients are currently used in combination with sunscreens: DEET, oil of citronella, and IR3535. EPA recently registered two other insect repellents, p-menthane-3,8-diol and picaridin. However, neither is currently available in combination with a sunscreen. Both DEET and oil of citronella have undergone reregistration, which entailed an evaluation and analysis of the complete database for each ingredient by EPA. IR3535, p-menthane-3,8-diol, and picaridin are registered chemicals evaluated by the registration process, which involves a similar analysis by EPA. They have not yet undergone the reregistration analysis.

1. DEET

In December 1998, EPA completed its RED for DEET (Ref. 1), which includes the active ingredient N,N-diethyl-meta-toluamide and its isomers. DEET products, which are applied directly to skin and/or clothing, are available in numerous formulations (e.g., aerosol and non-aerosol sprays, creams, lotions, sticks, foams, and towelettes) and concentrations (products range from about 4 percent to 100 percent active ingredient). DEET is an insect and mite repellent labeled for use in households/domestic dwellings, on the human body and clothing, on cats, dogs, and horses, and in pet living/sleeping quarters.

Based on pesticide usage information mainly for 1990 (Ref. 1), an average annual estimate of the domestic usage of DEET is 4 million pounds (active ingredient). About 30 percent of the U.S. population uses DEET annually as an insect repellent (this figure includes about 27 percent of adult males, 31 percent of adult females, and 34 percent of children). Approximately 21 percent of U.S. households use DEET annually. About 19 percent of households use DEET on household members, and about 4 percent of households that have cats and/or dogs use DEET on those pets.

EPA indicated in its DEET RED (Ref. 1):

> The Agency is concerned about consumer use of products that combine sunscreen and DEET, since directions to reapply sunscreens generously and frequently may promote greater use of DEET than needed for pesticidal efficacy and thus pose unnecessary exposure to DEET. DEET labels currently recommend that products be used sparingly and not be reapplied too often. Sunscreen products, however, recommend frequent reapplication. No benefits attach to use of DEET more frequently than necessary to achieve its purpose.

EPA did not make a regulatory decision regarding these DEET-sunscreen products at that time because it believed that it had not yet obtained adequate information.

2. Oil of Citronella

In February 1997, EPA completed its RED for Oil of Citronella (Ref. 2). This decision includes a comprehensive reassessment of the required target data and the use patterns of currently registered oil of citronella products. Oil of citronella is a biochemical pesticide. It is registered as an animal repellent and as an insect repellent/feeding depressant. Oil of citronella is the volatile oil obtained from the steam distillation of freshly cut or partially dried grasses (*Cymbopogon nardus* (Rendal) and *Cymbopogon winterianus* (Jowitt)). Two varieties of citronella oil exist commercially: ''Ceylon type'' (derived from *C. nardus*) and ''Java type'' (derived from *C. winterianus*).

Based on pesticide survey usage information for 1991 and 1992 (Ref. 2), annual oil of citronella domestic usage ranged approximately from 33,000 to 48,000 pounds active ingredient for four sites: Domestic dwellings; ornamentals; human face, skin, and clothing; and manufacturing. The largest markets, in terms of total pounds active ingredient, for oil of citronella as an insect repellent are: Human face, skin, and clothing (56 to 74 percent); domestic dwelling [outdoor] (22 to 41 percent); and ornamentals (1.5 to 2.0 percent). The balance is used for manufacturing.

In the RED (Ref. 2), EPA required all oil of citronella products with label claims for repelling mosquitoes, fleas, and ticks to have a minimum protection time of 1 hour. The directions for use must also contain the following statement pertaining to maintenance of repellent activity: ''For maximum repellent effectiveness of this product, repeat applications at 1 hour intervals.'' The RED allows the labeling to claim a protection time longer than 1 hour so long as it can be supported by product performance data showing an acceptable level of repellent activity. Because the principal uses of oil of citronella are dermal, special precautionary labeling related to dermal sensitization and irritation is required for all products with use directions for dermal application. EPA (Ref. 2) requires oil of citronella-sunscreen products for dermal application to bear the following precautionary statements regarding dermal sensitivity: ''For external use only. Avoid contact with eyes. Discontinue if irritation or rash appears. Use on children under 6 months of age only with the advice of a physician.'' These precautionary statements are consistent with the warnings and directions (regarding use on children under 6 months of age) that appear in FDA's stayed monograph for OTC sunscreen drug products (part 352 (21 CFR part 352)).

3. IR3535

The third currently registered insect repellent used in combination with a sunscreen is IR3535 (CAS number 52304–36–6). In 1997, EPA classified IR3535 as a biochemical for the following reasons (Ref. 3): (1) It is functionally identical to naturally occurring beta-alanine, (2) both ingredients repel insects, (3) their basic molecular structure is identical, (4) the end groups are not likely to contribute to toxicity, and (5) IR3535 acts to control the target pest via a nontoxic mode of action. IR3535 is a technical grade synthetic biochemical pesticide that is produced by an integrated process. It is a liquid containing 98 percent 3-[N-Butyl-N-acetyl]-aminopropionic acid, ethyl ester as the active ingredient and 2 percent inert ingredients.

4. p-menthane-3,8-diol and KBR 3023

There are two insect repellent active ingredients that are not currently used in a combination insect repellent-sunscreen drug product. However, for the purposes of completeness, all

currently registered insect repellents are discussed within this document.

The first ingredient is p-menthane-3,8-diol, a biochemical pesticide that is chemically synthesized, although the natural oil can be extracted from lemon eucalyptus leaves and twigs (Ref. 4). It can be used in spray and lotion products to repel insects such as mosquitoes.

The other insect repellent is KBR 3023, which contains the active ingredient picaridin. This chemical is currently formulated only for application to human skin. In December 2000, EPA registered a 15 percent pump-spray, 10 percent aerosol spray, 7 percent cream, 7 percent pump-spray, 5 percent cream, and 5 percent pump-spray (Ref. 5).

C. Regulatory Status of the Sunscreen Ingredients

In the **Federal Register** of May 21, 1999 (64 FR 27666), FDA issued a final monograph for OTC sunscreen drug products in part 352, establishing conditions under which these products are generally recognized as safe and effective and not misbranded. The monograph includes 16 sunscreen active ingredients in § 352.10; provides for combinations of sunscreen active ingredients in § 352.20; specifies required labeling in §§ 352.50, 352.52, and 352.60; and sets forth required testing procedures in §§ 352.70 through 352.77. Once the monograph becomes effective, any drug product (including any combination insect repellent-sunscreen drug product) that contains unsuitable inactive ingredients or active drug ingredients that do not comply with the monograph will be considered a new drug and require an approved new drug application (NDA) before it may be legally marketed in the United States.

Initially, the final monograph was to become effective on May 21, 2001, but FDA subsequently extended that date to December 31, 2002 (65 FR 36319, June 8, 2000). FDA then stayed the effective date of the monograph until further notice (66 FR 67485, December 31, 2001). FDA has delayed this effective date as it prepares an amendment to part 352 to address formulation, labeling, and testing requirements for ultraviolet A (UVA) radiation protection and to revise some of the requirements for ultraviolet B (UVB) radiation protection in a more comprehensive final monograph.

Historically, FDA has used its enforcement discretion to allow the marketing of insect repellent-sunscreen drug products pending the issuance of the final sunscreen monograph so long as the products contained sunscreen ingredients included in the FDA rulemaking and were registered with EPA. These types of products were first marketed before the OTC drug review began in 1972, and FDA has not explicitly addressed them at any time in the rulemaking for OTC sunscreen drug products. Because they have always contained a pesticide, the combination insect repellent-sunscreen products have also historically been registered with and regulated by EPA.

FDA is now interested in determining whether it should further amend that monograph to address these combination products. Once the final monograph for sunscreen drug products becomes effective, any combination product containing an unsuitable inactive ingredient or an active drug ingredient that is not included in the final monograph will be considered a new drug and need an NDA to be legally marketed, even if the product is also registered with EPA. Thus, one purpose of this document is to gather information to help FDA formulate its regulatory position toward these combination products.

D. Regulatory Jurisdiction Over Insect Repellent-Sunscreen Drug Products

In the **Federal Register** of December 22, 1971 (36 FR 24234), the Department of Health, Education, and Welfare (DHEW) and EPA published a Memorandum of Agreement (the Agreement) regarding matters of mutual responsibility under the Federal Food, Drug, and Cosmetic Act (FFDCA) and the FIFRA. The Agreement was amended in the **Federal Register** of September 6, 1973 (38 FR 24233). This Agreement does not explicitly address products that combine sunscreen and insect repellent active ingredients. As noted, one purpose of this document is to solicit comments regarding the complexities of joint jurisdiction of these combination products.

II. Information Requested and Specific Topics for Comment

Interested persons are asked to review and comment upon all aspects of both FDA's and EPA's documents. Interested persons should submit all comments to both agencies. Both agencies have potential safety and effectiveness concerns for some of these products because of the different intervals of time required or recommended between applications of sunscreens versus insect repellents. FDA is particularly interested in receiving comments on the following topics:

A. Possible Manufacturing Conflicts

Because they contain ingredients regulated by EPA and FDA, all insect repellent-sunscreen drug products currently need to comply with both EPA's testing and laboratory requirements in 40 CFR part 158 and FDA's current good manufacturing practice for finished pharmaceuticals requirements in part 211 (21 CFR part 211). The products will also have to meet the testing procedures for OTC sunscreen drug products in part 352, subpart D, when that monograph becomes effective. The agencies are not aware of any specific manufacturing requirements that conflict and invite specific comment and information on this subject.

1. Are manufacturers of insect repellent-sunscreen drug products or others aware of any conflicts between the EPA and FDA manufacturing requirements for these products? If yes, is there any way to resolve the conflict(s)?

2. Approximately 20 insect repellent-sunscreen drug products are currently registered with EPA. If there is a future FDA rulemaking for all combination insect repellent-sunscreen drug products, how should these currently registered products be addressed in the sunscreen monograph? What requirements should be retained, revised, or eliminated from the sunscreen monograph?

3. Have manufacturers of currently marketed insect repellent-sunscreen drug products conducted any of the testing described in part 352, subpart D, for their combination product(s), notwithstanding that the effective date of part 352 has been stayed? If yes, what problems, if any, have they encountered?

B. Possible Formulation Conflicts

During completion of its DEET RED, EPA solicited information from registrants of insect repellent-sunscreen drug products on the possibility of formulation conflicts. At that time, EPA received information that suggests a potential formulation conflict is encountered when sunscreen and insect repellent are used separately (or sequentially applied) (Ref. 6). It is unclear whether this formulation issue poses a similar or related problem when these ingredients are combined into a single product. The agencies invite specific comment and information on this subject.

C. Possible Labeling Conflicts

Insect repellent and sunscreen products each have different labeling

requirements that may conflict when both are combined and packaged in one product. The insect repellent component is subject to the labeling requirements in 40 CFR 156.10 entitled ''labeling requirements and the active ingredient specific requirements.'' For each registered insect repellent, these requirements are listed in the registration or reregistration documents. The sunscreen component of the product is subject to the labeling requirements in § 201.66 (21 CFR 201.66) and part 352. However, FDA has stayed these regulations for OTC sunscreen drug products until we issue a sunscreen final rule (69 FR 53801 (September 3, 2004) and 66 FR 67485).

The agencies are concerned that the labeling format and some of the content requirements vary between the EPA and FDA requirements. For example, FDA uses the word ''warning'' on labels, while EPA uses the word ''caution'' and only uses the word ''warning'' as an indicator of toxicity level on pesticide labels. Many of the required warning section headings are also different. In addition, the application directions for the sunscreen and the insect repellent components may be significantly different. For example, the application directions for sunscreens state to ''apply liberally (or generously) * * * as needed'' and provide for application to more areas of the body than do the application instructions for insect repellents, which tend to restrict the frequency of application and where and how the product can be applied.

EPA requirements for DEET include labeling that states: ''Apply sparingly around ears.'' and ''Do not apply to children's hands.'' The directions for some DEET products require a 6-hour interval between applications and state: ''Use just enough repellent to cover exposed skin and/or clothing'' and ''avoid over-application of this product.'' Also, a currently marketed insect repellent (DEET)-sunscreen drug product states in its labeling ''frequent reapplication and saturation is unnecessary for effectiveness.'' While frequent reapplication may not be necessary for the effectiveness of the DEET in this product, frequent reapplication may be necessary for the effectiveness of the sunscreen.

Hence, there are many differences between the labeling required by FDA for OTC drugs and EPA for pesticides. The labeling formats, labeling content, and the order in which information is presented are quite different. FDA and EPA are exploring whether they can reconcile these differences, safeguard the public health, and still adequately meet the requirements of FFDCA and FIFRA.

1. Concerning an integrated label, can the different instructions for the two components (regarding frequency of application and where the product can be applied) be reconciled into a single direction that does not lead to improper application (i.e., incorrect location), over-application of the insect repellent, or under-application of the sunscreen? Is there labeling that would reflect the differences in reapplication intervals for DEET when combined with sunscreen ingredients? Oil of citronella when combined with sunscreen ingredients? IR3535 when combined with sunscreen ingredients?

2. The FFDCA requires that all OTC drug products list the established name of each inactive ingredient on the outside container of the retail package (see section 502(e)(1)(A)(iii) of FFDCA (21 U.S.C. 352(e)(1)(A)(iii)); also see § 201.66(c)(8)). EPA does not require a complete declaration of ''inactive or inert'' ingredients and normally does not require insect repellent manufacturers to list the identities of inert ingredients on product labels. However, under FIFRA, if one inert ingredient is disclosed in product labeling, then all inert ingredients must be disclosed. EPA is currently discussing, with a wide spectrum of stakeholders, how to make information concerning inert ingredients more widely available. The results of those discussions will affect combination insect repellent-sunscreen drug products as well as other pesticide products. Failure to list all of the inactive ingredients in the product's labeling, including all such ingredients in the insect repellent, would cause a combination insect repellent-sunscreen drug product to be misbranded under the FFDCA (see section 502(e)(1)(A)(iii) of FFDCA). Is there a way to label combination sunscreen-insect repellent drug products that satisfies FFDCA's requirements under section 502(e)(1)(A) of FFDCA but does not violate FIFRA? Are those ingredients that are ''inert'' under FIFRA also necessarily ''inactive'' under FFDCA?

D. Safety Issues

FDA is aware of only two studies examining percutaneous absorption when combining an insect repellent with a sunscreen. One study involved hairless mice (Ref. 6) and the other study involved piglets (Ref. 7). Both studies demonstrate increased absorption of the insect repellent DEET and different sunscreens when the components were combined. Thus, FDA would like more information concerning the safety of insect repellent-sunscreen drug products:

1. Is there data available to show whether increased absorption of the sunscreen ingredients(s) does or does not occur as a result of being combined with an insect repellent ingredient? If so, please provide. For example, is there any evidence that absorption increases as the particle size of titanium dioxide and zinc oxide decreases (down to a few nanometers) in insect repellent-sunscreen products? If so, is there evidence regarding the health or safety effects associated with the increased absorption?

2. Are there reports or other information relating to skin irritation resulting from use of a combination insect repellent-sunscreen drug product are manufacturers of these products or others aware of? Provide a summary of the types of events reported and, if possible, estimate an incidence of occurrence.

E. Effectiveness Issues

For some insect repellent-sunscreen products, FDA has effectiveness concerns because of the interval of time required or recommended between applications of the product. EPA identifies reapplication times on insect repellent labels so consumers can maintain the maximum protection against insect bites but avoid over-exposure. This reapplication time relates to the effectiveness of the insect repellent portion of the product and not to the sunscreen protection. The directions for sunscreen products, which encourage frequent reapplication of the drug, relate to the effectiveness of the sunscreen component of the product and not to the insect repellent component.

The differences in directions for use for the insect repellent component and the sunscreen component need to be resolved to ensure safety and effectiveness of both components and the combination product as a whole. For example, the directions for some products containing DEET require a 6-hour interval between applications and state ''use just enough repellent to cover exposed skin and/or clothing'' and ''avoid over-application of this product.'' In contrast, the directions for sunscreen drug products in § 352.52(d)(1) and (d)(2) state to ''apply liberally, generously, smoothly, or evenly * * * before sun exposure and as needed,'' and ''reapply as needed or after towel drying, swimming, or (select 'sweating' or 'perspiring').'' Section 352.60(d) of the sunscreen monograph also states that ''when the time intervals or age limitations for administration of

the individual ingredients differ, the directions for the combination product may not contain any dosage that exceeds those established for any individual ingredient in the applicable OTC drug monograph(s), and may not provide for use by any age group lower than the highest minimum age limit established for any individual ingredient.''

Concerns about effectiveness also stem from a study (Ref. 8) indicating that separate application of sunscreen followed by DEET resulted in a decrease in sun protection factor (SPF) after application of the insect repellent. Thus, FDA is soliciting comment on the following questions:

1. Is there additional evidence suggesting that application of a sunscreen product followed by application of a separate insect repellent product results in a decrease in the sunscreen's SPF? Is there evidence suggesting that sequential application of the products has no adverse effect on the sunscreen?

2. Is there evidence suggesting that combining a sunscreen and insect repellent in a single formulation adversely impacts the effectiveness of the sunscreen? Is there evidence suggesting that such a combination has no adverse impact on the sunscreen component?

3. Are there effective concentrations of the insect repellent ingredients that could be used to allow for liberal application and frequent reapplication of the insect repellent-sunscreen drug products, as directed by the sunscreen directions, without jeopardizing the safety of the consumer? How does this vary by insect repellent ingredient? Would any of the insect repellent ingredients be effective at such concentrations?

4. Is there information available to show whether there are any chemical or physical incompatibilities between insect repellent and sunscreen active ingredients when used in combination products or when used separately? Are there any sunscreen ingredients that should not be used with a specific insect repellent ingredient?

5. If an insect repellent ingredient (e.g., DEET) is labeled for 6-hour intervals between applications, can the effectiveness of the sunscreen be assured if the product cannot be applied more often than every 6 hours? Is there a need for a minimal SPF to assure the effectiveness of the combination product considering the wide variation in minimal erythemal dose (MED) between individuals and the need for reapplication due to physical stress such as toweling or rubbing of the skin? If the answer is yes, what minimal SPF value should be required, and what is the basis for that SPF value?

6. Is there information available to demonstrate that there are product performance benefits [other than the convenience of using one product instead of two] derived from the concurrent application of the insect repellent and the sunscreen (as opposed to sequential application of these products separately)? Please submit any data that you reference.

7. Oil of Citronella products are labeled to repeat applications at 1 hour intervals for maximum repellent effectiveness. Is it possible that insect repellent-sunscreen drug products can be formulated in such a way that the insect repellent reapplication intervals coincide more closely with the sunscreen reapplication intervals? Can this be done without jeopardizing the safety or effectiveness of these products?

III. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on this document. Three copies of all written comments are to be submitted. Individuals submitting written comments or anyone submitting electronic comments may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. EPA Reregistration Eligibility Decision for DEET, 1998.

2. EPA Reregistration Eligibility Decision for Oil of Citronella, 1997.

3. EPA Biopesticide Registration Eligibility Document for IR3535, 1999.

4. EPA Biopesticide Registration Eligibility Document for p-menthane-3,8-diol, 2000.

5. EPA Decision Memorandum on KBR 3023, 2000.

6. Ross, E. A. et al., ''Insect Repellent Interactions: Sunscreens Enhance DEET (*N,N*-Diethyl-*M*-Toluamide) Absorption,'' *Drug Metabolism and Disposition*, 32:783–785, 2004.

7. Gu, X. et al., ''In Vitro Evaluation of Concurrent Use of Commercially Available Insect Repellent and Sunscreen Preparations,'' *British Journal of Dermatology*, 152: 1263–1267, 2005.

8. Montemarano, A. D. et al., ''Insect Repellents and the Efficacy of Sunscreens,'' *The Lancet*, 349:1670–1671, 1997.

This request for information and comment is issued under sections 201, 501, 502, 503, 505, 510, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, and 371) and under authority of the Commissioner of Food and Drugs.

Dated: December 5, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–2890 Filed 2–21–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–301P]

21 CFR Part 1308

Schedules of Controlled Substances: Placement of Lisdexamfetamine into Schedule II

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to place the substance lisdexamfetamine, including its salts, isomers, and salts of isomers, into schedule II of the Controlled Substances Act (CSA). This proposed action is based on a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (DHHS) and on an evaluation of the relevant data by DEA. This scheduling of lisdexamfetamine in schedule II will not be finalized until a New Drug Application (NDA) for a lisdexamfetamine product is approved by the Food and Drug Administration (FDA). If finalized, this action would impose the regulatory controls and criminal sanctions of schedule II on those who handle lisdexamfetamine and products containing lisdexamfetamine.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before March 26, 2007.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–301'' on all written and electronic correspondence. Written comments sent via regular mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA

Federal Register Representative/ODL. Written comments sent via express mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept electronic comments containing MS Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

FOR FURTHER INFORMATION CONTACT: Christine Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, (202) 307–7183.

SUPPLEMENTARY INFORMATION: Lisdexamfetamine is a central nervous system stimulant drug. The Food and Drug Administration (FDA) is currently reviewing a New Drug Application (NDA) for lisdexamfetamine. Upon approval of this pending NDA, lisdexamfetamine will be marketed as a prescription drug product for the treatment of Attention Deficit Hyperactivity Disorder (ADHD).

Lisdexamfetamine is an amide ester conjugate comprised of the amino acid L-lysine covalently bound to the amino group of d-amphetamine. The chemical name of its dimesylate salt form is (2S)-2,6-diamino-N-[(1S)-1-methyl-2-phenethyl]hexanamide dimethanesulfonate (CAS number 608137–32–3). Lisdexamfetamine per se is pharmacologically inactive and its effects are due to its in vivo metabolic conversion to d-amphetamine. In this regard, lisdexamfetamine acts as a prodrug.

Lisdexamfetamine shares substantial pharmacological effects and abuse potential with amphetamine. Lisdexamfetamine is positively reinforcing in monkeys. It generalizes to the discriminative stimulus effects of d-amphetamine in monkeys. It produces locomotor stimulation in rats. In adults, the total amphetamine exposure resulting from 75 mg oral lisdexamfetamine is equivalent to 35 mg oral Adderall XR, an extended release amphetamine product. Peak plasma concentrations of d-amphetamine following oral ingestion of 50 and 70 mg lisdexamfetamine correspond closely to those produced by oral ingestion of 30 and 50 mg immediate-release d-amphetamine product. In controlled clinical studies, lisdexamfetamine has been found to be similar to d-amphetamine in psychoactive measures. It produces euphoria in humans typical of d-amphetamine. Lisdexamfetamine shows an adverse event profile similar to that of d-amphetamine. Some adverse effects of lisdexamfetamine include insomnia, nervousness, irritability, anorexia, weight loss, mood alterations, and increases in blood pressure and heart rate.

Lisdexamfetamine has not been studied for its psychological and physical dependence potential. However, since lisdexamfetamine is a prodrug for d-amphetamine, it is expected to possess dependence potential similar to that of d-amphetamine. d-Amphetamine is known to cause both psychological and physical dependence. Some symptoms of d-amphetamine withdrawal include depression, increase in sleep and food intake, drug craving, anhedonia, irritability and poor concentration.

Lisdexamfetamine is a new molecular entity and has not been marketed in the United States or other countries. Therefore, there has been no evidence of diversion, abuse, or law enforcement encounters involving lisdexamfetamine. On November 14, 2006, the Assistant Secretary for Health, DHHS, sent the Deputy Administrator of DEA a scientific and medical evaluation and a letter recommending that lisdexamfetamine be placed into schedule II of the CSA. Enclosed with the November 14, 2006 letter was a document prepared by the FDA entitled, ''Basis for the Recommendation for Control of Lisdexamfetamine in Schedule II of the Controlled Substances Act.'' The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)).

The factors considered by the Assistant Secretary of Health and DEA with respect to lisdexamfetamine were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effects;

(3) The state of current scientific knowledge regarding the drug;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter. (21 U.S.C. 811(c))

Based on the recommendation of the Assistant Secretary for Health, received in accordance with section 201(b) of the Act (21 U.S.C. 811(b)), and the independent review of the available data by DEA, the Deputy Administrator of DEA, pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Lisdexamfetamine has a high potential for abuse;

(2) Upon approval of the pending NDA, lisdexamfetamine will have a currently accepted medical use in treatment in the United States; and

(3) Abuse of lisdexamfetamine may lead to severe psychological or physical dependence.

Based on these findings, the Deputy Administrator of DEA concludes that lisdexamfetamine, including its salts, isomers, and salts of isomers, warrants control in schedule II of the CSA, if and when an NDA for lisdexamfetamine is approved.

Interested persons are invited to submit their comments, objections or requests for a hearing with regard to this proposal. Requests for a hearing should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Deputy Administrator, Drug Enforcement Administration, Washington, DC, 20537, Attention: DEA Federal Register Representative/ODL. In the event that comments, objections, or requests for a hearing raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Requirements for Handling Lisdexamfetamine

If this rule is finalized as proposed, lisdexamfetamine would be subject to CSA regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, dispensing, importing and exporting of a schedule II controlled substance, including the following:

Registration. Any person who manufactures, distributes, dispenses, imports, exports, engages in research or conducts instructional activities with lisdexamfetamine, or who desires to manufacture, distribute, dispense, import, export, engage in instructional activities or conduct research with

lisdexamfetamine, would be required to be registered to conduct such activities in accordance with Part 1301 of Title 21 of the Code of Federal Regulations.

Security. Lisdexamfetamine would be subject to schedule II security requirements and must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a), (c), and (d), 1301.73, 1301.74, 1301.75(b) and (c), 1301.76 and 1301.77 of Title 21 of the Code of Federal Regulations.

Labeling and Packaging. All labels and labeling for commercial containers of lisdexamfetamine which are distributed after finalization of this rule would be required to comply with requirements of §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations.

Quotas. Quotas for lisdexamfetamine would be established pursuant to part 1303 of Title 21 of the Code of Federal Regulations.

Inventory. Every registrant required to keep records and who possesses any quantity of lisdexamfetamine would be required to keep an inventory of all stocks of lisdexamfetamine on hand pursuant to §§ 1304.03, 1304.04 and 1304.11 of Title 21 of the Code of Federal Regulations. Every registrant who desires registration in schedule II for lisdexamfetamine would be required to conduct an inventory of all stocks of the substance on hand at the time of registration.

Records. All registrants would be required to keep records pursuant to §§ 1304.03, 1304.04, 1304.21, 1304.22, and 1304.23 of Title 21 of the Code of Federal Regulations.

Reports. All registrants required to submit reports to the Automation of Reports and Consolidated Order System (ARCOS) in accordance with § 1304.33 of Title 21 of the Code of Federal Regulations would be required to do so for lisdexamfetamine.

Orders for Lisdexamfetamine. All registrants involved in the distribution of lisdexamfetamine would be required to comply with the order form requirements of part 1305 of Title 21 of the Code of Federal Regulations.

Prescriptions. All prescriptions for lisdexamfetamine or prescriptions for products containing lisdexamfetamine would be required to be issued pursuant to 21 CFR 1306.03–1306.06 and 1306.11–1306.15.

Importation and Exportation. All importation and exportation of lisdexamfetamine would need to be in compliance with part 1312 of Title 21 of the Code of Federal Regulations.

Criminal Liability. Any activity with lisdexamfetamine not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act occurring on or after finalization of this proposed rule would be unlawful.

Regulatory Certifications

Executive Order 12866

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, section 3(d)(1).

Regulatory Flexibility Act

The Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Lisdexamfetamine products will be prescription drugs used for the treatment of Attention Deficit Hyperactivity Disorder (ADHD). Handlers of lisdexamfetamine will also handle other controlled substances used to treat ADHD which are already subject to the regulatory requirements of the CSA.

Executive Order 12988

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

Executive Order 13132

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

Unfunded Mandates Reform Act of 1995

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

Congressional Review Act

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by U.S. Department of Justice regulations (28 CFR 0.100), and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby proposes that 21 CFR part 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES [AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.12 is proposed to be amended by adding a new paragraph (d)(5) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(d) * * *

(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers 1205

* * * * *

Dated: February 12, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–2993 Filed 2–21–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070209029–7029–01; I.D. 112906A]

RIN 0648–AU58

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to amend regulations implementing the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to avoid expiration of these regulations on December 31, 2007, and ensure uninterrupted observer coverage in North Pacific groundfish fisheries. The proposed rule is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs).

DATES: Written comments must be received by March 23, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by any of the following methods:

- Mail: to P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK, 99802;
- Fax: (907) 586–7557;
- E-mail: *0648–AU58obs@noaa.gov*. Include in the subject line of the email the following identifier: Observer Program Extension 0648–AU58. E-mail comments, with or without attachments, are limited to five megabytes; or
- Webform at the Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the mailing address above or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907–586–7228, or *jason.anderson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) in the Exclusive Economic Zone (EEZ) under the FMPs. The North Pacific Fishery Management Council (Council) has prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Groundfish fisheries in the GOA and BSAI are managed under quotas set annually for groundfish species and for several other species that groundfish fishery participants are prohibited from retaining. Management programs under the FMPs allocate specific quotas among areas, seasons, gear types, processor and catcher vessel sectors, cooperatives, and individual fishermen. Annual quotas are based on NMFS stock assessments and Council recommendations. The Alaska Region NMFS is responsible for monitoring the catch of these quotas, and for closing the fisheries when quotas are reached. Stock assessments, quota monitoring, and management require an accounting for all groundfish and prohibited species catch, including discarded catch.

Observer requirements for fisheries off Alaska have been in place since the mid–1970s, when the Magnuson Fishery Conservation and Management Act (re-authorized in 1996 as the Magnuson-Stevens Act) was implemented and NMFS began to monitor U.S. EEZ foreign groundfish fisheries. The Secretary of Commerce (Secretary) and the Council recognized that living marine resources cannot be effectively managed without the types of information that are either available only or most efficiently through an observer program. Therefore, when foreign vessel fisheries ended in 1991, the Council developed and the Secretary approved a domestic Observer Program that authorized the placement of observers on domestic fishing vessels and at shoreside processing plants participating in Alaskan groundfish fisheries. The domestic Observer Program was implemented through Amendment 18 to the GOA FMP and Amendment 13 to the BSAI FMP (54 FR 50386, December 6, 1989, and 55 FR 4839, February 12, 1990). Observer coverage requirements have remained mostly unchanged since approval of the program.

The current Observer Program has an integral role in the management of North Pacific fisheries. The information collected by observers provides the best available scientific information for managing the fisheries and developing measures to minimize bycatch in furtherance of the purposes and national standards of the Magnuson-Stevens Act. Observers collect catch data used by managers for quota monitoring and management of groundfish and prohibited species, biological data and samples used by scientists for stock assessment analyses, information used by managers to document and reduce fishery interactions with protected resources, and information and samples used by scientists in marine ecosystem research. The Observer Program also provides information, analyses, and support in the development of proposed policy and management measures. Further, observers interact with the fishing industry on a daily basis and the Observer Program strives to promote constructive communication between the agency and interested parties. Observations are used by managers and enforcement personnel to document the effectiveness of the management programs of various entities, including NMFS, the U.S. Coast Guard, and the U.S. Fish and Wildlife Service.

High quality observer data are a cornerstone of Alaska groundfish fisheries management. However, the quality and utility of observer data suffer due to the current structure of procuring and deploying observers. Under the current program, coverage levels vary with the size of the vessel or the quantity of fish processed. Vessel owners and operators choose when and where to carry observers, and fishery managers do not control when and where observers are deployed. To address these concerns, the Council directed NMFS to develop an alternate program structure. Since the early 1990's, the Council and NMFS have explored alternative program structures as part of three separate actions. However, the Council identified problems with each of these actions and none were adopted. While the Council was developing and considering options for an alternate program structure, the Council recommended, and the Secretary approved, several extensions of the Observer Program regulations. A thorough discussion of the history of the Observer Program, including past efforts to restructure and extend the Observer Program, is provided in the EA/RIR/

IRFA prepared for this action (see **ADDRESSES**), and is not repeated here.

In October 2002, the Council tasked its observer advisory committee (OAC) to develop a problem statement and alternatives for restructuring the Observer Program. In April 2003, the Council adopted a suite of alternatives that contemplated restructuring the Observer Program in a stepwise approach, beginning in the GOA. However, as NMFS began evaluating these alternatives, it became apparent that certain operational and data quality issues would be difficult to resolve in a revised program under which NMFS contracted directly with observers for observer services in the GOA, but retained the current system for procuring observer services in the BSAI.

From December 2003 through June 2005, the Council refined the suite of alternatives, and in June 2005 adopted the current alternatives for analysis. These alternatives include options to restructure the Observer Program for all groundfish and halibut vessels fishing in the GOA only, for halibut vessels and certain sectors fishing in both the GOA and BSAI, and for all groundfish and halibut fisheries. Shoreside and stationary floating processors were included under each alternative depending on their location and management program. In addition to the ''no-action'' alternative under which the Observer Program would expire, the Council also asked staff to analyze an alternative that would remove the December 31, 2007, expiration date and continue current observer coverage regulations without an expiration date.

While the Council intended to adopt a preferred alternative by January 1, 2008, several issues arose during the course of analysis of the alternatives that has made this difficult. First, due to uncertainty about the applicability of overtime pay provisions of the Fair Labor Standards Act to contracted observers, staff were unable to adequately analyze observer costs under any of the restructure alternatives. Second, the Research Plan authority to assess a fee for observer coverage could not be exclusively applied to a subset of the North Pacific groundfish fisheries vessels. Therefore, all the action alternatives except Alternative 2 (extension of the current program) required new statutory authorization for fee collection from a portion of the fleet or to implement different fee mechanisms for different sectors, as were considered in the analysis.

Because observer costs cannot be adequately calculated and the uncertainty that Congress would authorize fee collection, NMFS recommended that the Council adopt Alternative 2 as its preferred alternative. The Council concurred and adopted Alternative 2 at its February 2006 meeting. The Council also amended the problem statement to reflect that, while Alternative 2 does not address most of the issues in the problem statement, it ensures Observer Program viability, and the continued collection of information necessary to manage the North Pacific fisheries. While the costs of the restructuring alternatives cannot be adequately calculated at this time, the analysis prepared for this action includes restructuring alternatives to provide context to the Council's adoption of Alternative 2.

Expiration of the Observer Program would result in significant costs to groundfish fishery participants. Without data collected by observers, NMFS would be forced to adopt a much more conservative approach towards managing the groundfish fisheries of the GOA and BSAI. Such an approach could lead to early fisheries closures because there would be no observer data for total allowable catch (TAC) and prohibited species catch limit calculations. NMFS would likely rely on more population models to generate allowable biological catch and TAC recommendations. In addition, failure to maintain a groundfish observer program in the North Pacific would violate the terms of a variety of statutes, including the Endangered Species Act (ESA). The ESA requires observer coverage as a reasonable and prudent measure for certain management actions. These are non-discretionary measures under current biological opinions and are prescribed under the incidental take statements for endangered marine mammals, salmon, and seabirds.

Also in June 2006, the Council decided it would consider a new amendment proposing restructuring alternatives for the Observer Program when (1) legislative authority is established for fee-based alternatives; (2) the cost issues described above are clarified (by statute, regulation, or guidance) to allow estimated costs associated with the fee-based alternatives; or (3) the Council responds to changes in conditions that cannot be anticipated now.

On January 12, 2007, the President signed the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Pub. Law No. 109–479). The reauthorized Magnuson-Stevens Act includes language that would appear to allow the Council to adopt a fee collection program as considered in the analysis. However, the exact nature of the fee program authorized by the Magnuson-Stevens Act must be determined, the Council must consider a new amendment to restructure the current Observer Program, and NMFS must undergo rulemaking to implement a new Observer Program. Therefore, implementing a fee collection and restructured Observer Program prior to the December 31, 2007, expiration date would be difficult. Additionally, the observer cost issues described above remain unresolved.

Revisions to Observer Program Regulations

For the reasons described above, NMFS proposes to remove the December 31, 2007, expiration date from the heading of 50 CFR 679.50 and from regulations at § 679.50(j)(1)(vi). The current Observer Program would continue until the Council recommends and the Secretary approves and implements further action to amend the program. Continuation of the current Observer Program is necessary to prevent interruption of many current management programs.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives and legal basis for this action are contained in the preamble and are not repeated here. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

This proposed rule would extend the effective date of regulations governing the Observer Program beyond December 31, 2007, the current expiration date. Extending the Observer Program beyond December 31, 2007, is necessary for uninterrupted continuation of many of the current management programs. The entities that would be directly regulated by this proposed action are groundfish and halibut harvesters and processors of the BSAI and GOA EEZ. These entities include the halibut vessels, groundfish catcher vessels, groundfish catcher processor vessels, and shoreside processors active in these areas. It also includes organizations to which direct allocations of groundfish are made, such as the BSAI community development quota (CDQ) groups and the American Fisheries Act (AFA) fishing sectors.

The IRFA identified the following small entities that would be impacted

by this rule. Based on 2005 data, 23 of the 87 catcher/processors active in the North Pacific groundfish fisheries would be considered small entities. All five North Pacific observer provider companies and the six CDQ groups would be considered small entities. Estimates of the number of shoreside processors that are small entities include all Alaska processors that reported processing groundfish to NMFS in 2002. Due to insufficient ownership and affiliation information, it is not possible, at this time, to determine how many of the 73 shoreside processors qualify as small entities. However, at least eight shoreside processors would be considered large entities because of American Fisheries Act (AFA) affiliations. Finally, 807 groundfish and halibut catcher vessels have gross revenues less than $4 million, and would be considered small entities.

Alternative 1 is the no action alternative. Under this alternative, the current Observer Program would continue to be the only system under which groundfish observers would be provided in the BSAI and GOA groundfish fisheries. Regulations authorizing the current program expire at the end of 2007.

No additional recordkeeping and reporting requirements are associated with this action.

Alternative 2 is the preferred alternative, and would extend the existing program. Under this alternative, the 2007 sunset date for the existing program would be removed and the program would be extended indefinitely with no changes to the overall service delivery model until the Council took further action.

Alternative 3 would restructure the Observer Program for GOA groundfish and all halibut fisheries, while BSAI groundfish fisheries would be administered under the current system. A new ex-vessel value fee program would be established to fund coverage for GOA groundfish vessels, GOA-based processors, and halibut vessels operating throughout Alaska. Regulations that divide the fleet into zero, 30 percent, and 100 percent coverage categories would no longer apply to vessels and processors in the GOA. Fishermen and processors would no longer be responsible for obtaining their own observer coverage. Rather, NMFS would determine when and where to deploy observers based on data collection and monitoring needs, and would contract directly for observers using fee proceeds and/or direct Federal funding.

Alternative 4 would restructure the Observer Program for all fisheries with coverage less than 100 percent. All vessels and processors assigned to Tiers 3 and 4 would participate in the new program throughout Alaska and pay an ex-vessel value based fee. In general, this alternative would apply to all halibut vessels, all groundfish catcher vessels less than 125 ft (38.1 m) in length overall and all non-AFA shoreside processors. All vessels and processors assigned to Tiers 1 and 2 (100 percent or greater coverage) would continue to operate under the current ''pay-as-you-go'' system throughout Alaska.

Alternative 5 would restructure the Observer Program for all groundfish and halibut fisheries off Alaska. This alternative would establish a new fee-based groundfish observer program in which NMFS has a direct contract with observer providers for all GOA and BSAI groundfish and halibut vessels. Under this alternative, vessels with 100 percent or greater coverage requirements would pay a daily observer fee and vessels with coverage requirements less than 100 percent would pay an ex-vessel value based fee.

As noted in the preamble above, Alternative 1 would result in significant costs to the fleet.

The impacts to small entities of the Alternatives 2 through 5, expressed as a percentage of the ex-vessel value of groundfish and halibut landed, are presented in the EA/RIR/IRFA prepared for this action and are summarized here. Current observer costs expressed as a percentage of ex-vessel landed catch value can be considered a reasonable estimate of the costs to each sector of the fleet under Alternative 2 (rollover of the existing program). In the BSAI management area for the years 2000 through 2003, these costs averaged 2.54 percent for catcher/processors, 1.49 percent for catcher vessels, and 0.89 percent for all processors, including motherships. In the GOA management area for these same years, these costs averaged 1.11 percent for catcher/processors, 1.71 percent for catcher vessels, and 0.65 percent for all processors.

Although adoption of Alternative 3, 4 or 5 would require new statutory authority that currently does not exist, adoption of any of these alternatives as presented in the EA/RIR/IRFA would require selection of a low, middle, or high ex-vessel fee percentage. Estimated costs expressed as a percentage of ex-vessel value of groundfish and halibut landings for the low, middle, and high endpoint options for Alternative 3 are 0.52 percent, 0.70 percent, and 1.05 percent, respectively. Estimated costs in terms of a percent of ex-vessel value for Alternative 4 are 0.69 percent, 0.83 percent, and 1.15 percent. Finally estimated costs in terms of a percent of ex-vessel value for Alternative 5 are 0.69 percent, 0.83 percent, and 1.15 percent.

The analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 15, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.50, paragraph (j)(1)(vi) is removed and the section heading is revised to read as follows:

§ 679.50 Groundfish Observer Program.

* * * * *

[FR Doc. E7–3019 Filed 2–21–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 35

Thursday, February 22, 2007

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development One Hundred and Fiftieth Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and fiftieth meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:30 a.m. to 3:45 p.m. on February 27, 2007 at the National Association of State Universities and Land Grant Colleges (NASULGC) located at 1307 New York Avenue NW., Washington, DC. The meeting is being held in NASULGC's main conference room located on the ground floor.

The morning session will be opened by Mr. Peter McPherson, Chairman of the BIFAD. The first presentation to the Board will cover Transformational Development and Budget Implications for U.S. Universities. This will be followed by a presentation on Increasing the Role of Universities in African Development—New Perspectives. At mid-morning the Board will then host an open discussion to explore the strategic direction of BIFAD for 2007. At noon Mr. James R. Kunder, Acting Deputy Administrator of the U.S. Agency for International Development (USAID), will join the Board for an executive luncheon. Following the luncheon Mr. Kunder will swear-in new BIFAD members. Title XII implementation will be the focus of the afternoon business sessions. Included will be presentations and discussion on USAID's horticultural development initiative, management of the Collaborative Research Support Programs (CRSPS), and the Strategic Partnership for Agricultural Research & Education (SPARE).

The meeting is free and open to the public; with the exception of the executive luncheon which is closed. Those wishing to attend the meeting or obtain additional information about BIFAD should contact Ronald S. Senykoff, the Designated Federal Officer for BIFAD. Write him in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture, Bureau for Economic Growth, Agriculture and Trade, 1300 Pennsylvania Avenue, NW., Room 2.11–085, Washington DC, 20523–2110 or telephone him at (202) 712–0218 or fax (202) 216–3010.

Ronald S. Senykoff,

USAID Designated Federal Officer for BIFAD, Office of Agriculture, Bureau for Economic Growth, Agriculture & Trade, U.S. Agency for International Development.

[FR Doc. E7–2900 Filed 2–21–07; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–FV–07–0023; FV02–502]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request for revision of a currently approved information collection for Fruit and Vegetable Market News.

DATES: Comments must be received by April 23, 2007.

ADDRESSES: Interested persons are invited to submit written comments on the internet at *http://www.regulations.gov* or to the Market News Branch, Fruit & Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 2503 South, Stop 0238, Washington, DC 20250–0238. Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION: Contact Terry C. Long, Chief; Fruit and Vegetable Market News Branch, Fruit and Vegetable Programs, (202) 720–2175, Fax: (202) 720–0547.

SUPPLEMENTARY INFORMATION:

Title: Fruit and Vegetable Market News.

OMB Number: 0581–0006.

Expiration Date of Approval: July 31, 2007.

Type of Request: Revision of a currently approved information collection.

Abstract: Collection and dissemination of information for fruit, vegetable and ornamental production and to facilitate trading by providing a price base used by producers, wholesalers, and retailers to market product.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), section 203(g) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income and to bring about a balance between production and utilization.

The fruit and vegetable industry provides information on a voluntary basis, and is gathered through confidential telephone and face-to-face interviews by market reporters. Reporters request supplies, demand, and prices of over 330 fresh fruit, vegetable, nut ornamental, and other specialty crops. The information is collected, compiled, and disseminated by Market News in its critical role as an impartial third party. It is collected and reported in a manner which protects the confidentiality of the respondent and their operations.

The fruit and vegetable market news reports are used by academia and various government agencies for regulatory and other purposes, but are primarily used by the fruit, vegetable and ornamental trade, which includes packers, processors, brokers, retailers, producers, and associated industries. Members of the fruit and vegetable industry regularly make it clear that they need and expect the Department of Agriculture will issue price and supply market reports for commodities of regional, national and international significance in order to assist in making immediate production and marketing

decisions and as a guide to the amount of product in the supply channel. In addition, the Agricultural Marketing Service buys hundreds of millions of dollars of fruit and vegetable products each year for domestic feeding programs, and Market News data is a critical component of the decision making process.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .03 hours per response.

Respondents: Fruit, vegetable, and ornamental industry, or other for-profit businesses, individuals or households, farms.

Estimated Number of Respondents: 18,274.

Estimated Number of Responses per Respondent: 218.

Estimated Total Annual Burden on Respondents: 119,512 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 15, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–2944 Filed 2–21–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0157]

Syngenta; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Corn Genetically Engineered for Insect Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; reopening of comment period for draft environmental assessment.

SUMMARY: We are reopening the comment period for a draft environmental assessment prepared with respect to a petition from Syngenta Seeds, Inc., seeking a determination of nonregulated status for corn rootworm-resistant corn derived from a transformation event designated as MIR604. This action will allow interested persons additional time to prepare and submit comments on the draft environmental assessment.

DATES: We will consider all comments on the draft environmental assessment that are received on or before March 9, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0157 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0157, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0157.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Catherine Preston, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5874, e-mail: *catherine.a.preston@aphis.usda.gov*. To obtain copies of the petition or the environmental assessment, contact Ms. Cynthia Eck at (301) 734–0667, e-mail: *cynthia.a.eck@aphis.usda.gov*. The petition and the environmental assessment are also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/04_36201p.pdf* and *http://www.aphis.usda.gov/brs/aphisdocs/04_36201p_ea.pdf*

SUPPLEMENTARY INFORMATION: On January 10, 2007, we published in the **Federal Register** (72 FR 1212–1214, Docket No. APHIS–2006–0157) a notice advising the public that the Animal and Plant Health Inspection Service has received a petition from Syngenta Seeds, Inc., seeking a determination of nonregulated status for corn rootworm-resistant corn derived from a transformation event designated as MIR604. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, our notice solicited comments on whether this corn presents a plant pest risk. We also made available for public comment a draft environmental assessment for the proposed determination of nonregulated status.

In our notice, we stated that we will consider comments on the petition that are received on or before March 12, 2007, and comments on the draft environmental assessment that are received on or before February 9, 2007. We are reopening the comment period for the draft environmental assessment for an additional 15 days from the date of publication of this notice. This action will allow interested persons additional time to prepare and submit comments on the draft environmental assessment. We will also consider all comments on the draft environmental assessment we receive between February 10, 2007, and the date of this notice.

(Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.)

Done in Washington, DC, this 16th day of February 2007.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–3119 Filed 2–21–07; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Membership of the USCCR Performance Review Board

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of Membership of the USCCR Performance Review Board.

SUMMARY: This notice announces the appointment of the Performance Review Board (PRB) of the United States Commission on Civil Rights. Publication of PRB membership is required pursuant to 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of the U.S. Commission on Civil Rights' Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Staff Director, U.S. Commission on Civil Rights for the FY 2006 rating year.

FOR FURTHER INFORMATION CONTACT: Tyro Beatty, Director of Human Resources, U.S. Commission on Civil Rights, 624 Ninth Street, NW., Washington, DC 20425. Telephone: (202) 376–8364.

USCCR Performance Review Board Members

Cynthia G. Pierre, Director, Field Management Programs, EEOC.

Lawrence W. Roffee, Executive Director, U.S. Access Board.

David Enzel, Deputy Director, HUD Office of Appeals Policy Management.

Dated: February 15, 2007.

David P. Blackwood,

General Counsel.

[FR Doc. E7–2957 Filed 2–21–07; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–583–816

Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review

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

EFFECTIVE DATE: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Judy Lao, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution, NW, Washington DC 20230; telephone: (202) 482–0405 and (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2006, the Department of Commerce (''the Department'') published a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel butt–weld pipe fittings from Taiwan for the period of review (''POR'') of June 1, 2005, through May 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation, Opportunity to Request Administrative Review*; 71 FR 32032 (June 2, 2006). On June 22, 2006, Flowline Division of Markovitz Enterprises, Inc. (''Flowline Division''), Gerlin, Inc., Shaw Alloy Piping Products, Inc., and Taylor Forge Stainless, Inc. (collectively, ''petitioners'') requested an antidumping duty administrative review for Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''), Liang Feng Stainless Steel Fitting Co., Ltd., Tru–Flow Industrial Co., Ltd., Censor International Corporation, and PFP Taiwan Co., Ltd. On June 29, 2006, Ta Chen requested an administrative review of its sales to the United States during the POR. On July 27, 2006, the Department published the notice initiating this administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 71 FR 42626 (July 27, 2006). The preliminary results are currently due not later than March 2, 2007.

Extension of Time Limits for Preliminary Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR § 351.213(h)(2), the Department may extend the deadline for completion of the preliminary results of a review by 120 days if it determines that it is not practicable to complete the preliminary results within 245 days after the last day of the anniversary month of the date of publication of the order for which the administrative review was requested. Due to the complexity of the issues involved and the time required to analyze Ta Chen's supplemental questionnaire responses, as well as the demands of other proceedings handled by the office administering this review, the Department has determined that it is not practicable to complete this review within the original time period. Accordingly, the Department is extending the time limit for the preliminary results by 120 days, to not later than July 2, 2007, in accordance with Section 751(a)(3)(A) of the Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

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

Dated: February 13, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–2901 Filed 2–21–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Implementation of Grants to Manufacturers of Certain Worsted Wool Fabrics Established Under Title IV of the Miscellaneous Trade and Technical Corrections Act of 2004

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice Announcing the Availability of Grant Funds.

SUMMARY: This Notice announces the availability of grant funds in calendar year 2007 for U.S. manufacturers of certain worsted wool fabrics. The purpose of this notice is to provide the general public with a single source of program and application information related to the worsted wool grant offerings, and it contains the information about the program required to be published in the **Federal Register**.

DATES: Applications by eligible U.S. producers of certain worsted wool fabrics must be received or postmarked by 5 p.m. Eastern Daylight Standard Time on March 26, 2007. Applications received after the closing date and time will not be considered.

ADDRESSES: Applications must be submitted to the Industry Assessment Division, Office of Textiles and Apparel, Room 3001, U.S. Department of Commerce, Washington, DC 20230, (202) 482-4058.

FOR FURTHER INFORMATION CONTACT: Jim Bennett, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION: *Electronic Access:* The full funding opportunity announcement for the worsted wool fabrics program is available through FedGrants at *http://www.grants.gov*. The Catalog of Federal

Domestic Assistance (CFDA) Number is 11.113, Special Projects.

Statutory Authority: Section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429, 118 Stat. 2603) (the ''Act''). The Act was amended pursuant to Section 1633 of the Pension Protection Act of 2006 (Public Law 109-280), which extended the availability of grant funds through 2009 and modified the eligibility criteria.

Program Description: Section 4002(c)(6)(A) of the Act authorizes the Secretary of Commerce to provide grants to persons (including firms, corporations, or other legal entities) who were, during calendar years 1999, 2000, and 2001, manufacturers of two categories of worsted wool fabrics. The first category are manufacturers of worsted wool fabrics, containing 85 percent or more by weight of wool, with average fiber diameters greater than 18.5 micron (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); the total amount of available funds is $2,666,000, to be allocated among such manufacturers on the basis of the percentage of each manufacturers' production of worsted wool fabric included in HTS 9902.51.11. The second category are manufacturers of worsted wool fabrics, containing 85 percent or more by weight of wool, with average fiber diameters of 18.5 micron or less (HTS heading 9902.51.15, previously HTS heading 9902.51.12); the total amount of available funds is $2,666,000, to be allocated among such manufacturers on the basis of the percentage of each manufacturers' production of worsted wool fabric included in HTS 9902.51.15.

Funding Availability: The Secretary of Commerce is authorized under section 4002(c)(6)(A) of the Act to provide grants to manufacturers of certain worsted wool fabrics. Funding for the worsted wool fabrics grant program will be provided by the Department of the Treasury from amounts in the Wool Apparel Manufacturers Trust Fund (the ''Trust Fund''). The total amount of grants to manufacturers of worsted wool fabrics described in HTS 9902.51.11 shall be $2,666,000 in calendar year 2007. The total amount of grants to manufacturers of worsted wool fabrics described in HTS 9902.51.15 shall also be $2,666,000 in calendar year 2007.

Eligibility Criteria: Eligible applicants for the worsted wool fabric program include persons (including firms, corporations, or other legal entities) who were, during calendar years 1999, 2000 and 2001, manufacturers of worsted wool fabric in the United States of the kind described in HTS 9902.51.11 or 9902.51.15. Section 1633(b)(1)(C) of the Pension Protection Act of 2006 provides that only manufacturers who weave worsted wool fabric in the United States as of the date of application shall be eligible for grant funds. Any manufacturer who becomes a successor-of-interest to a manufacturer of the worsted wool fabrics described in HTS 9902.51.11 or HTS 9902.51.15 during 1999, 2000 or 2001 because of a reorganization or otherwise, shall be eligible to apply for such grants.

Applications to Receive Allocations: Applicants must provide: (1) Company name, address, contact and phone number; (2) Federal tax identification number; (3) the name and address of each plant or location in the United States where worsted wool fabrics of the kind described in HTS 9902.51.11 or HTS 9902.51.15 was woven by the applicant in 1999, 2000 and 2001; (4) the name and address of each plant or location in the United States where the applicant is weaving worsted wool fabrics of the kind described in HTS 9902.51.11 and or HTS 9902.51.15 as of the date of application; (5) the quantity, in linear yards, of worsted wool fabric production described in HTS 9902.51.11 or 9902.51.15, as appropriate, woven in the United States in each of calendar years 1999, 2000 and 2001; and (6) the value of worsted wool fabric production described in HTS 9902.51.11 or 9902.51.15, as appropriate, woven in the United States in each of calendar years 1999, 2000 and 2001. This data must indicate actual production (not estimates) of worsted wool fabric of the kind described in HTS 9902.51.11 or 9902.51.15.

At the conclusion of the application, the applicant must attest that ''all information contained in the application is complete and correct and no false claims, statements, or representations have been made.'' Applicants should be aware that, generally, pursuant to 31 U.S.C. 3729, persons providing a false or fraudulent claims, and, pursuant to 18 U.S.C. 1001, persons making materially false statements or representations, are subject to civil or criminal penalties, respectively.

Information that is marked ''business confidential'' will be protected from disclosure to the full extent permitted by law.

Other Application Requirements: Complete applications must include the following forms and documents: CD-346, Applicant for Funding Assistance; CD-511, Certification Regarding Lobbying; SF–424, Application for Federal Assistance; and SF-424B, Assurances - Non-Construction Programs. The CD forms are available via Web site: **http://www.osec.doc.gov/forms/direct.htm**. The SF forms are available via web site: *http://www.grants.gov/sitemap/sitemap.jsp* (See ''Applicant Information, Approved Standard Form SF-424 Forms'').

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 269, 424, 424A, 424B, SF-LLL, and CD-346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348-0039, 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Allocation Procedures: Section 4002(c)(6)(A) of the Act requires that each grant be allocated among eligible applicants on the basis of the percentage of each manufacturers' production of the fabric described in HTS 9902.51.11 or HTS 9902.51.15 for calendar years 1999, 2000, and 2001, compared to the production of such fabric by all manufacturers who qualify for such grants. Following the closing date of the receipt of applications, the Department shall calculate the appropriate allocation of the allotted funds among eligible applicants in accordance with the statutory procedures. Award decisions shall be final and not subject to appeal or protest.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

Administrative and National Policy Requirements: Department of Commerce Pre-Award Notifications for Grants and Cooperative Agreements, which are contained in the **Federal Register** Notice of December 30, 2004 (69 FR 78389), are applicable to this solicitation.

It has been determined that this notice is not significant for purposes of E.O. 12866.

Administrative Procedure/Regulatory Flexibility: Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act for rules concerning public property, loans, grants, benefits, and contracts (5 USC 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 USC 553 or any other law, the analytical

requirements of the Regulatory Flexibility Act (5 USC 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Dated: February 15, 2007.

R. Matthew Priest,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 07–794 Filed 2–16–07; 2:26 pm]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Consent Motion To Terminate the Panel Review of the final antidumping duty determination and order made by the International Trade Commission, respecting Purified Carboxymethylcellulose (''CMC'') from Mexico, Secretariat File No. USA–MEX–2005–1904–05.

SUMMARY: Pursuant to the Notice of Consent Motion To Terminate the Panel Review by the complainants, the panel review is terminated as of February 13, 2007. A panel has not been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

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 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 was requested and terminated pursuant to these Rules.

Dated: February 15, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–2903 Filed 2–21–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021507C]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of an exempted fishing permit application (EFP); intent to issue the EFP; request for comments.

SUMMARY: NMFS announces the receipt of an exempted fishing permit (EFP) application, and the intent to issue EFPs for vessels participating in an observation program to monitor the incidental take of salmon and groundfish in the shore-based component of the Pacific whiting fishery. The EFPs are necessary to allow trawl vessels fishing for Pacific whiting to delay sorting their catch, and thus to retain prohibited species and groundfish in excess of cumulative trip limits until the point of offloading. These activities are otherwise prohibited by Federal regulations. The EFPs will be effective no earlier than April 1, 2007, and would expire no later than December 31, 2007, but could be terminated earlier under the terms and conditions of the EFPs and other applicable laws.

DATES: Comments must be received by March 9, 2007.

ADDRESSES: Send comments or request for copies of the EFP application to Gretchen Arentzen, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115 0070 or email *EFPwhiting2007.nwr@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 10 megabyte file size.

FOR FURTHER INFORMATION CONTACT: Gretchen Arentzen or Becky Renko at (206)526 6140.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson-Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the November 2006 Pacific Fishery Management Council (Council) meeting in Del Mar, California, NMFS received an application for these EFPs from the States of Washington, Oregon, and California. An opportunity for public testimony was provided during the Council meeting. The Council recommended that NMFS issue the EFPs, as requested by the States, and forwarded the EFP applications to NMFS.

Each year since 1992, EFPs have been issued to vessels in the Pacific whiting shoreside fishery to allow unsorted catch to be landed. Without an EFP, groundfish regulations at 50 CFR 660.306(a) require vessels to sort their catch at sea. The vessels fishing under the EFPs are required to deliver catch to designated processors. EFPs have been used to: track the incidental take of Chinook salmon as required in the Endangered Species Act (ESA) Section 7 Biological Opinion for Chinook salmon catch in the Pacific whiting fishery; and to track the catch of whiting and other groundfish species such that the fishing industry is not unnecessarily constrained and that the OYs, harvest guidelines, sector allocation and overfished species bycatch limits are not exceeded.

Over the past five years, the number of vessels issued these EFPs has been between 31 and 38 vessels. Issuance of the 2007 EFPs, to approximately 40 vessels, will allow samplers located at the shoreside processing facilities to collect information on the incidental catch of salmon and groundfish in unsorted whiting deliveries. Unlike the at-sea sectors of the Pacific whiting fishery, where catch is sorted and processed shortly after it has been taken, vessels in the shoreside fishery must hold primary season Pacific whiting on the vessel for several hours or days until it can be offloaded at a shoreside processor. Pacific whiting deteriorates rapidly, so it must be handled quickly and immediately chilled to maintain product quality. This is particularly true if the Pacific whiting is to be used to make surimi (a fish paste product). The quality or grade of surimi is highly dependent on the freshness of the Pacific whiting, which demands careful

handling and immediate cooling or processing for the fishery to be economically feasible. Because rapid cooling can retard flesh deterioration, most vessels prefer to dump their unsorted catch directly below deck into the refrigerated salt water tanks. However, dumping the unsorted catch into the refrigerated salt water tanks precludes the immediate sorting or sampling of the catch. As a primary season fishery, fishers prefer to quickly and efficiently handle the catch so they can return to port for offloading.

In 2004, 2005, and 2006, NMFS provided electronic monitoring systems to catcher vessels fishing under the whiting EFP as part of a pilot study to evaluate if these systems would be useful tools to verify retention and/or document discard at sea. Based on the results from the 2004, 2005, and 2006 pilot studies, NMFS has determined that an EFP is an effective tool for monitoring maximized retention in the whiting fishery.

In addition to providing information that will be used to monitor the attainment of the shore-based whiting allocation, information gathered through these EFPs is expected to be used in a future rulemaking. The Council recommended using EFPs only until a permanent monitoring program can be developed and implemented. For 2008, NMFS intends to implement, through federal regulation, a monitoring program for the shore-based Pacific whiting fleet. At its September 2006 meeting, the Pacific Council was provided with a joint agency report on whiting fishery monitoring and management, and subsequently provided guidance to NMFS on development of draft alternatives for the monitoring program. Based on information learned during the 2004, 2005 and 2006 EFPs, guidance from the Pacific Council, and informational meetings between Federal and state agencies and industry members, NMFS developed a draft set of monitoring program alternatives and accompanying draft regulations to be implemented in the 2008 fishery. These draft alternatives and regulations were presented to the Pacific Council at their November 2006 meeting. An opportunity for public testimony was provided during the Council meeting. NMFS will complete the EA and provide a final draft to the Council in April 2007, at which time the Council will take final action on the proposed alternatives. NMFS will then publish the proposed rule prior to the start date of the 2008 shore-based primary Pacific whiting season. Given this timeline, 2007 will serve as a transition year, in which the EFPs issued to participating vessels will have requirements as similar as possible to the proposed Federal regulations. In addition, NMFS intends to implement, through notice and comment rulemaking, temporary processor regulations for 2007. That action is intended to address catch accounting difficulties that occurred during the 2006 Pacific whiting shoreside fishery and to improve the agency's ability to monitor the attainment of allocations, bycatch limits, and prohibited species take. The proposed action defines requirements for recordkeeping, reporting, catch sorting, and weighing that apply to individuals who receive, buy, or accept Pacific whiting from a vessel using midwater trawl gear during the primary season for the shore-based sector. NMFS anticipates publishing shortly a proposed rule to implement this action in the **Federal Register**.

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

Dated: February 15, 2007.

James P. Burgess,

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

[FR Doc. E7–2963 Filed 2–21–07; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR Agreement)

February 15, 2007.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain two-way stretch woven fabric of polyester/rayon/spandex, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR region. The product will be added to the list in Annex 3.25 of the CAFTA-DR in unrestricted quantities.

EFFECTIVE DATE: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 2582.

FOR FURTHER INFORMATION ON-LINE:

http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 17.2007.01.16.Fabric.Sandler,Travis& RosenbergforLidoIndustries.

SUPPLEMENTARY INFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Act for modifying the Annex 3.25 list. On February 23, 2006, CITA published interim procedures it would follow in considering requests to modify the Annex 3.25 list (71 FR 9315).

On January 16, 2007, the Chairman of CITA received a request from Sandler, Travis & Rosenberg, P.A., on behalf of Lido Industries, for certain two-way stretch woven fabric of polyester/rayon/spandex, of the specifications detailed below. On January 18, 2007, CITA notified interested parties of, and posted on its website, the accepted petition and requested that interested entities provide, by January 30, 2007, a response advising of its objection to the request or its ability to supply the subject product, and rebuttals to responses by February 5, 2007.

No interested entity filed a response advising of its objection to the request or its ability to supply the subject product.

In accordance with Section 203(o)(4) of the CAFTA-DR Act, and its

procedures, as no interested entity submitted a response objecting to the request or expressing an ability to supply the subject product, CITA has determined to add the specified fabrics to the list in Annex 3.25 CAFTA-DR Agreement.

The subject fabrics are added to the list in Annex 3.25 CAFTA-DR Agreement in unrestricted quantities.

Specifications:

HTS Subheading:	5515.11.00
Fiber Content:	60%-75% polyester; 20%-35% viscose rayon; 3% - 6% spandex*COM041*
Yarn:	Spun on the synthetic or long staple spinning system in order to impart added strength, evenness, luster, and pilling resistance in the fabric
Staple Length:	44 to 70 mm
Yarn Size (warp and filling):	40/2 to 84/2 wrapped around 225 to 118 spandex (metric)
Thread Count:	24 to 44 warp ends x 16 to 32 filling picks per square centimeter
Weave Type:	Various
Weight:	200 to 300 grams per square meter
Width:	127 to 152 centimeters
Finish:	Piece dyed and of yarns of different colors.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 07–795 Filed 2–16–07; 2:26 pm]

BILLING CODE 3510–DS

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

February 15, 2007.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

EFFECTIVE DATE: February 22, 2007.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain two-way stretch woven fabric of polyester, rayon, and elastomeric yarns, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 2582.

FOR FURTHER INFORMATION ON-LINE: *http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf.* Reference number: 18.2007.01.17.Fabric.Alston& BirdforGlenRiverTrading.

SUPPLEMENTARYINFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(56), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Act for modifying the Annex 3.25 list. On February 23, 2006, CITA published interim procedures it would follow in considering requests to modify the Annex 3.25 list (71 FR 9315).

On January 17, 2007, the Chairman of CITA received a commercial availability request from Alston & Bird, LLP, on behalf of Glen River Trading, for certain two-way stretch woven fabrics of polyester, rayon, and elastomeric yarns, of the specifications detailed below. On January 19, 2007, CITA notified interested parties of, and posted on its website, the accepted petition and requested that interested entities provide, by January 31, 2007, a response advising of its objection to the commercial availability request or its ability to supply the subject product. CITA also explained that rebuttals to responses were due to CITA by February 6, 2007.

No interested entity filed a response advising of its objection to the request or its ability to supply the subject product.

In accordance with Section 203(o)(4)(C) of the CAFTA-DR Act, and its procedures, as no interested entity submitted a response objecting to the request or expressing an ability to supply the subject product, CITA has determined to add the specified fabrics to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject fabrics are added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

Specifications:

HTS Subheading:	5515.11.10
Fiber content:	58 to 68 percent polyester; 29 to 36 percent rayon; 3 to 7 percent spandex
Staple length (where applicable):	4.44 to 6.99 centimeters
Yarn number:	(two configurations): **Configuration # 1:** (metric) Warp and filling: 51/2 to 85/2 polyester/rayon staple combined with 44 to 77 decitex spandex filament **Configuration # 2:** (metric) Warp and filling: 51/1 to 85/1 polyester/rayon staple combined with 44 to 77 decitex spandex filament
Thread count:	27 to 47 warp ends by 24 to 39 filling picks per centimeter
Weave type:	Various (including plain and twill)
Weight:	203 to 339 grams per square meter
Width:	122 to 152 centimeters
Finish:	Dyed and of yarns of different colors

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.07–793 Filed 2–16–07; 2:26 am]

BILLING CODE 3510–DS

COMMODITY FUTURES TRADING

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, March 2, 2007.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–820 Filed 2–20–07; 11:34 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, March 9, 2007.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–821 Filed 2–20–07; 11:34 am]

BILLING CODE 6351–02–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, March 16, 2007.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–822 Filed 2–20–07; 11:34 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, March 23, 2007.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–823 Filed 2–20–07; 11:34 am]

BILLING CODE 61351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, March 30, 2007.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–824 Filed 2–20–07; 11:34 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Seminars About Mattress Flammability Standard (16 CFR Part 1633)

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of seminars.

SUMMARY: The staff of the Consumer Product Safety Commission (''CPSC'' or ''the Commission'') will conduct two seminars to help mattress manufacturers, importers, retailers and others in the mattress industry better understand the requirements of the Commission's new mattress flammability standard so that they will be prepared when the standard goes into effect on July 1, 2007. The seminars will take a practical approach and will focus on the following topics: developing a prototyping plan, ensuring compliance through quality control, and working with a test lab to conduct the required testing.

One seminar will be at CPSC's headquarters in Bethesda, Maryland on Wednesday, March 28, 2007. The other will be held in San Diego, California on Wednesday, April 11, 2007. See the **ADDRESSES** section of this notice for location details. The seminars are free, public events, but registration is required for each attendee. Please register on the Commission's Web site at *http://www.cpsc.gov/businfo/mattressseminar.html* or, if you do not have access to a computer, call Heather E. Sonabend at 301–504–7615.

Persons who would like to present information at the seminars that could be helpful to mattress manufacturers should submit a request outlining their presentation. These requests must be submitted on the CPSC's Web site no later than February 28, 2007. Persons may also request to set up a table-top display with information that could assist manufacturers in complying with the mattress flammability standard. These requests must also be submitted on CPSC's Web site no later than February 28, 2007. Selected presenters will be notified by March 7, 2007. If presenting information, the presentation must be offered at both seminars. Persons may also submit questions that they would like to have addressed by presenters at the seminars related to the topics described in this notice. Such questions must be submitted on the CPSC's Web site, *http://www.cpsc.gov/businfo/mattressseminar.html*, no later than February 28, 2007. All participants and attendees are prohibited from selling or soliciting sales of their products at the seminars.

DATES: The seminars will be held on March 28 in Bethesda, Maryland from 8 a.m. to 5 p.m. and April 11 in San Diego, California from 9 a.m. to 5 p.m. Requests to make a presentation, including an outline of their presentation, or to set up a table-top display, must be submitted on CPSC's Web site no later than February 28, 2007. Questions for the presenters must be submitted on CPSC's Web site, *http://www.cpsc.gov/businfo/mattressseminar.html*, no later than February 28, 2007.

ADDRESSES: The seminars will take place at CPSC headquarters, 4330 East West Highway, Hearing Room (4th floor), Bethesda, Maryland 20814 and at the San Diego State Building, 1350 Front Street, Room B–109, San Diego, California. To register for the seminars or to request to make a presentation, provide a table-top display, or submit questions please go to the Commission's Web site, *http://www.cpsc.gov/businfo/mattressseminar.html*. If you do not have access to a computer, contact Heather E. Sonabend, (301) 504–7615.

FOR FURTHER INFORMATION CONTACT: For information about the seminars, contact Allyson Tenney, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814, (301) 504–7567; e-mail *atenney@cpsc.gov* or contact Mary Toro, Office of Compliance, Consumer Product Safety Commission, 4330 East-

West Highway, Bethesda, Maryland 20814, (301) 504–7586; e-mail *mtoro@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

On March 15, 2006, the Commission published the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633, 71 FR 13472. The standard establishes performance requirements that all mattress sets manufactured, imported or renovated on or after July 1, 2007 must meet. With certain exceptions, the standard requires mattress manufacturers to test three specimens of each prototype before a mattress set is introduced into commerce. A prototype is a specific design of a mattress set that serves as a model for the production units that will be introduced into commerce.

Because small variations in construction of a mattress set can affect fire performance, the standard establishes certain quality assurance requirements. The standard also requires manufacturers to maintain certain records to document compliance with the standard.

This is a complex standard with requirements that must be closely followed to ensure that mattress sets will comply with the standard's criteria. As the standard's effective date of July 1, 2007 approaches, the Commission staff recognizes that mattress manufacturers, importers and retailers need practical information on what they must do to be sure their mattresses will meet the standard.

B. The Seminars

The Commission staff is scheduling two seminars, one on the East Coast (Bethesda, Maryland) and one on the West Coast (San Diego, California). The CPSC staff anticipates that the seminars will occur over one day, but staff will be available at the seminar location on the following day to answer questions if desired. Most of the day will be spent with panel discussions on the topics listed below followed by smaller break-out sessions on the topics of testing/labs issues; prototype/component issues; and compliance/recordkeeping issues.

The seminars are free, public events, but registration is required for each attendee. Please register on the Commission's Web site at *http://www.cpsc.gov/businfo/mattressseminar.html* or, if you do not have access to a computer, contact Heather E. Sonabend, (301) 504–7615. Registration is limited to 150 attendees at each location. No more than three individuals from an organization may attend each seminar.

The CPSC staff is requesting submissions from persons who wish to make presentations at the seminars, set up table-top displays with information that could assist mattress manufacturers, or ask questions of the presenters or CPSC staff. Note that the Commission cannot endorse any particular products or companies. All participants are prohibited from selling or soliciting sales of their products at the seminars. The presentations, table-top displays and questions should be informational, not promotional. Also note that if presenting information, the presentation must be offered at both seminars.

At each seminar there will be three panels. Each panel will have three selected presenters, each of whom will make a 15 minute presentation. The panels will cover (and presentations should address) the following topics:

- *Panel 1:* Prototyping—how to develop a plan; Component selection; and Production—the necessities of building a compliant mattress.
- *Panel 2:* Quality Control—ensuring compliance through production; and Electronic records and recordkeeping.
- *Panel 3:* Testing—Working with a lab; Where and how to locate a lab; and What to ask.

Table-top displays should present information that will be helpful to mattress manufacturers as they seek to understand and comply with the standard. The displays may include various products and components that would assist manufacturers in developing prototypes that meet the standard. Displays could also include information on construction techniques, quality assurance programs, and/or testing. No more than 20 table-top displays will be permitted. The Commission cannot endorse any particular products or companies, and a statement to that effect will be shown near the table-top displays. No sales may be solicited or made at the seminars.

Questions for the presenters and/or CPSC staff should pertain to the following topics:

- Scope of the standard,
- Prototyping,
- Quality control/production,
- Component issues,
- Testing, and
- Recordkeeping.

Outlines of presentations, descriptions of table-top displays and questions must be submitted in advance in accordance with the dates and procedures listed in the **DATES** and **ADDRESSES** sections of this notice. The Commission staff reserves the right to edit any presentations, displays or questions.

Dated: February 14, 2007.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E7–2911 Filed 2–21–07; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2006–OS–0096]

Higher Initial Maximum Uniform Allowance Rate; Uniform Allowance

AGENCY: Department of Defense; Office of the Deputy Under Secretary of Defense (Civilian Personnel Policy).

ACTION: Notice.

SUMMARY: This is the final notice that the Department of Defense (DoD or ''the Department''), is establishing a higher initial maximum uniform allowance to procure and issue uniform items for uniformed police personnel. This action is pursuant to the authority granted to DoD by § 591.104 of title 5, Code of Federal Regulations (CFR), which states that an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under 5 CFR 591.103.

DATES: *Effective Date:* February 11, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. George T. Bell, 703–696–1268.

SUPPLEMENTARY INFORMATION: DoD is implementing a higher initial maximum uniform allowance to procure and issue uniform items for uniformed police personnel. This is in accordance with 5 CFR 591.104, which states that an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under 5 CFR 591.103. The current $400.00 limit has become inadequate to maintain the uniform standards and professional image expected of Federal police officers. The uniform items for uniformed police personnel include the following items or similar items such as: Goretex gloves; 6-pocket pants; 4-pocket long sleeve shirts; cold weather duty jackets; light weight duty jackets; sweaters; all season trousers; summer duty shirts; winter duty shirts; raincoats; sheriff's type hats; ties; shoes; leather boots; heavy duty coats; shoulder patches, and cloth

badges. The average total uniform cost for the listed items is $1,800.00. Based on these current costs, the Department is increasing the initial maximum uniform allowance for uniformed police personnel to $1,800.00. A notice of this planned action was published in **Federal Register** on October 10, 2006 (71 FR 59496). Since no comments were received by the date of December 11, 2006, the Department of Defense is proceeding with the establishment of the higher initial maximum uniform allowance rate for uniformed police personnel. The effective date of this higher initial maximum uniform allowance rate is February 11, 2007.

Dated: February 15, 2007.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–788 Filed 2–21–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 26, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

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.

Dated: February 15, 2007.

Angela C. Arrington,

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

Institute of Education Sciences

Type of Review: New.

Title: Strategies for Native American Parent Involvement.

Frequency: On Occasion.

Affected Public:

Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 40.

Burden Hours: 60.

Abstract: The Strategies for Native American Parent Involvement study entails four focus groups with Native American parents to explore: (1) The ways in which Native American parents and families get involved in their children's education; (2) the barriers to their involvement; and (3) school strategies that have helped these families get involved in their children's education. Participating parents will be chosen from Center Region states with high concentrations of Native American students. Results of the study will be provided to school, district, and SEA administrators so they can make use of strategies to increase parent involvement of Native American communities.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3238. 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. E7–2999 Filed 2–21–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Foundations for Learning; Notice inviting applications for new awards for fiscal year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215H.

Dates:

Applications Available: February 22, 2007.

Deadline for Transmittal of Applications: April 13, 2007.

Deadline for Intergovernmental Review: June 12, 2007.

Eligible Applicants: (1) Local educational agencies (LEAs); (2) Local councils; (3) Community-based organizations (CBOs), including faith-based organizations; (4) Other public or nonprofit private entities; or (5) A combination of such entities.

Estimated Available Funds: The Administration's budget request for FY 2007 does not include funds for this program. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year if Congress appropriates funds for this program. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2008 and subsequent years based on the list of unfunded applications from this competition.

Estimated Range of Awards: $200,000–$300,000.

Estimated Average Size of Awards: $245,500.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program supports projects to help eligible children become ready for school.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 5542 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, 20 U.S.C. 7269a (ESEA).

Absolute Priority: For FY 2007 and any subsequent year in which we make awards on the basis of the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: Grants to local educational agencies, local councils, community-based organizations, including faith-based organizations, and other public and nonprofit private entities, or a combination of such entities, to assist eligible children to become ready for school.

To be eligible for funding, a project must propose one or more of the following—

(1) To deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development;

(2) To coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services;

(3) To provide ancillary services such as transportation or child care in order to facilitate the delivery of any other authorized services or activities;

(4) To develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families;

(5) To evaluate the success of strategies and services provided pursuant to the grant in promoting young children's successful entry to school and to maintain data systems required for effective evaluations; and

(6) To pay for the expenses of administering the grant activities, including assessment of children's eligibility for services.

Program Authority: 20 U.S.C. 7269a.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration's budget request for FY 2007 does not include funds for this program. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year if Congress appropriates funds for this program. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2008 and subsequent years based on the list of unfunded applications from this competition.

Estimated Range of Awards: $200,000–$300,000.

Estimated Average Size of Awards: $245,500.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

III. Eligibility Information

1. *Eligible Applicants:* LEAs; (2) Local councils; (3) Community-based organizations (CBOs), including faith-based organizations; (4) Other public or nonprofit private entities; or (5) A combination of such entities.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching but does involve supplement-not supplant funding provisions. *See* 20 U.S.C. 7269a(b)(3)(D).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.215H.

Copies of the application package for this competition can also be found at: *http://www.ed.gov/about/offices/list/osdfs/programs.html.*

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in Section VII of this notice under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:*

a. *Statutory Application Requirements:* Applications submitted under this program must include the following—

(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant;

(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State; and

(3) An assurance that—

- Services under the grant will be provided by or under the supervision of qualified professionals with expertise in early childhood development;
- These services will be culturally competent;
- These services will be provided in accordance with the permissible uses of funds as described elsewhere in this notice;
- Funds will be used to supplement, and not supplant, non-Federal funds; and
- Parents of students participating in services will be involved in the design and implementation of the services.

b. *Page Limit:* The program narrative section should not exceed 25 double-spaced pages using a standard font no smaller than 12-point, with 1-inch margins (top, bottom, left, and right). The narrative should follow the format and sequence of the selection criteria.

c. *Other:* Other requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:*

Applications Available: February 22, 2007.

Deadline for Transmittal of Applications: April 13, 2007.

Applications for grants under the Foundations for Learning Grants Program may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed

under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice.

Deadline for Intergovernmental review: June 12, 2007.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:*

Limitations on Use of Funds.

(1) Grant funds may be used only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

(2) A grantee may not use more than 3 percent of the amount of the grant to pay the expenses of administering the authorized activities, including assessment of children's eligibility for services.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under the Foundations for Learning Grants Program may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the Government-wide Grants.gov Apply site. The Foundations for Learning Grants Program, CFDA Number 84.215H, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Government-wide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for the Foundations for learning Grants Program at *http://www.Grants.gov* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.215, not 84.215H). Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov. You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) Registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department). The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with

the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:
U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215H), 400 Maryland Avenue, SW., Washington, DC 20202–4260.

or

By mail through a commercial carrier:
U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.215H), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215H), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and— if not provided by the Department— in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application receipt. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are in the application package for this competition.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* If funded, you are expected to collect data on the key GPRA performance measures for this program and report those data to the Department in your final performance report at the end of your project period. Your final performance report must also include financial information, as directed by the Secretary. We may also require more frequent performance reports in accordance with 34 CFR 75.720(c).

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the Foundations for Learning grants program: (1) The percentage of eligible children served by the grant attaining measurable gains in emotional, behavioral, and social development will increase; and (2) The percentage of eligible children and their families served by the grant receiving individualized support from child-serving agencies or organizations will increase.

Applicants are encouraged to demonstrate a strong capacity to provide reliable data on these indicators in responding to the selection criteria, ''Quality of project services'' and ''Quality of the project evaluation.''

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Earl Myers, U.S. Department of Education, 400 Maryland Ave., SW., room 3E254, Washington, DC 20202–6450. Telephone: (202) 708–8846 or by e-mail: *earl.myers@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on

request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: February 16, 2007.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E7–3036 Filed 2–21–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

* * * * *

ACTION: Notice of Public Meeting.

DATE & TIME: Wednesday, February 21, 2007, 8 a.m.–8:30 a.m.

PLACE: Ritz-Carlton Atlanta, 191 Peachtree Street, NE., Ballroom Pre-Function III/IV, Atlanta, Georgia 30303, (404) 659–0400.

AGENDA: The Commission will consider accrediting iBeta Quality Assurance and SysTest Labs LLC. to receive federal approval to test voting systems against federal voting system standards and guidelines based upon the recommendations of the National Institute of Standards and Technology (NIST) as required by the Help America Vote Act (HAVA).

This meeting will be open to the public.

STATEMENT OF EXCEPTION CIRCUMSTANCES: This notice of a meeting will not be published in the **Federal Register** 7 days prior to the meeting date. Late notice was unavoidable due to the combination of two factors: (1) The time required for EAC to properly evaluate the January 18, 2007 recommendations EAC received from NIST to federally accredit two voting system test laboratories and (2) to serve the public interest by having the two federally accredited labs in place immediately in order to begin testing voting systems against federal voting system standards and guidelines. With the 2008 elections schedule fast approaching, it is most critical that the federal voting system testing process begin at the earliest possible date.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

* * * * *

Gracia M. Hillman,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. 07–809 Filed 2–16–07; 4:21 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Record of Decision and Floodplain Statement of Findings: Site Selection for the Expansion of the Strategic Petroleum Reserve

AGENCY: Office of Fossil Energy, U.S. Department of Energy (DOE).

ACTION: Record of Decision (ROD).

SUMMARY: DOE has prepared an environmental impact statement (EIS) (DOE/EIS–0385), pursuant to the National Environmental Policy Act of 1969 (NEPA), to assess the environmental impacts associated with a proposal to expand the crude oil storage capacity of the Strategic Petroleum Reserve (SPR) from 727 million barrels (MMB) to 1 billion barrels, and to fill the Reserve to the full authorized volume of 1 billion barrels. The proposal was to develop one new storage facility and expand the capacity of two or three existing SPR storage facilities.

After careful consideration of the environmental impacts of the alternatives, along with an evaluation of SPR distribution capabilities, geological technical assessments, projected costs, and operational impacts associated with existing commercial operations, DOE has decided to develop a new 160 MMB SPR storage facility at Richton (Mississippi), expand the storage capacity at the existing Bayou Choctaw (Louisiana) SPR facility by 33 MMB, expand the storage capacity at the existing Big Hill (Texas) SPR facility by 80 MMB, and fill the Reserve to 1 billion barrels of oil as authorized by Congress.

This ROD has been prepared in accordance with the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508) for implementing NEPA and DOE's NEPA Implementing Procedures (10 CFR Part 1021). The accompanying Floodplain Statement of Findings has been prepared in accordance with DOE's regulations ''Compliance with Floodplain and Wetland Environmental Review Requirements'' (10 CFR Part 1022). Because the decision differs somewhat from the alternatives evaluated in the EIS, DOE has prepared a Supplement Analysis (SA) (DOE/EIS–0385–SA–1) to determine whether a supplement to the final EIS is required. DOE has determined that the minor modification to the Bayou Choctaw expansion site, i.e., an increase in capacity of 33 MMB compared to 20 MMB as described in the final EIS, is not a substantial change to the proposed action that is relevant to environmental concerns, and there are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, within the meaning of 40 CFR 1502.9(c)(1) and 10 CFR 1021.314(c). Therefore, a supplement to the SPR final EIS is not needed.

ADDRESSES: The final EIS is available on the DOE NEPA Web site at *http://www.eh.doe.gov/nepa/documentspub.html* and on the project's Web site at *http://www.fossil.energy.gov/programs/reserves/spr/expansion-eis.html,* and the ROD and SA will be available on both Web sites in the near future. Copies of the final EIS and this ROD and SA may be requested by contacting Donald Silawsky at the Office of Petroleum Reserves (FE–47), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, by telephone at 202–586–1892, by facsimile at 202–586–4446, or by electronic mail at *donald.silawsky@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: For further information on the site selection for the expansion of the Strategic Petroleum Reserve, contact David Johnson at the Office of Petroleum Reserves (FE–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, by telephone at 202–586–4733, by facsimile at 202–586–7919, or by electronic mail at *david.johnson@hq.doe.gov.* For general information on the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000

Independence Avenue, SW., Washington, DC 20585, by telephone at 202–586–4600, or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Agency Action

On August 8, 2005, the President signed the Energy Policy Act of 2005 (EPACT, Pub. L. 109–58). Section 303 of EPACT states that: ''Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve.''

EPACT Section 301(e) directs the Secretary to ''* * * acquire petroleum in quantities sufficient to fill * * *'' the SPR to 1 billion barrels, the capacity of the SPR authorized by the Energy Policy and Conservation Act. Thus, the purpose and need for agency action is to select and develop sites necessary to add 273 MMB of new storage capacity to the SPR, so that SPR capacity can be expanded from 727 MMB to 1 billion barrels.

On January 23, 2007, the President proposed an expansion of the SPR to 1.5 billion barrels. Any DOE proposal in this regard, however, is independent of the current expansion to 1 billion barrels and would be subject to a separate NEPA review process.

NEPA Review

DOE determined that the proposed SPR site selection and expansion constitute a major Federal action that may have a significant impact on the environment within the meaning of NEPA. For this reason, DOE prepared an EIS, Site Selection for the Expansion of the Strategic Petroleum Reserve Final Environmental Impact Statement (DOE/EIS–0385). DOE published a Notice of Intent to Prepare an EIS on September 1, 2005 (70 FR 52088), and held four public scoping meetings. Copies of the comment letters received during the scoping period and complete public scoping meeting transcripts are available at *http://www.fossil.energy.gov/programs/reserves/spr/expansion-eis.html.*

DOE filed the draft EIS with the Environmental Protection Agency (EPA) on May 19, 2006. EPA published a Notice of Availability (NOA) in the **Federal Register** on May 26, 2006 (71 FR 30400), starting the 45-day public comment period that ended on July 10, 2006. DOE considered all comments in preparing the final EIS, which was filed with EPA on December 8, 2006. Copies of the comment letters and oral testimony received during the public comment period are available at the Internet site listed above. The comments and DOE's responses are also set forth in the final EIS.

The EPA published a NOA of the final EIS in the **Federal Register** on December 15, 2006 (71 FR 75540). As discussed further below, DOE prepared an SA, Supplement Analysis to the Site Selection for the Expansion of the Strategic Petroleum Reserve Final Environmental Impact Statement (DOE/EIS–0385–SA–1), to address a minor modification to the Bayou Choctaw expansion site, i.e., an increase in capacity of 33 MMB compared to 20 MMB discussed in the final EIS. DOE determined that a supplement to the final EIS is not required.

Proposed Action

DOE's proposed action is to develop one new site, expand capacity at two or three existing sites, and fill the SPR to its full authorized volume of 1 billion barrels. Storage capacity would be developed by solution mining of underground storage caverns in salt domes and disposing of the resulting salt brine by ocean discharge or underground injection. New pipelines, marine terminal facilities, and other infrastructure would also be required. Proposed construction and operation activities include clearing and preparing sites; constructing pipelines and facilities for raw water intake, disposing of brine, and distributing crude oil; constructing transmission lines to provide electrical power to the sites; and constructing or augmenting support buildings and other facilities.

Alternatives

In developing the range of reasonable alternatives, DOE first considered expansions of three existing storage sites, which would capitalize on existing site infrastructure and operations and thereby minimize development time and construction costs. DOE, however, cannot reach its goal of 273 MMB of additional storage capacity by expanding only at existing sites. Therefore, the alternatives considered are a combination of one new site and two or three expansion sites, as shown in the table below.

ALTERNATIVES CONSIDERED IN FINAL EIS AND SA

New sites and capacity analyzed	Epansion sites and added capacity	Total new capacity*
Bruinsburg, MS (160 MMB)	*113 MMB*[a]	273 MMB or
Chacahoula, LA (160 MMB)	Bayou Choctaw (33 MMB)	
	Big Hill (80 MMB) OR	
Richton, MS (160 MMB)	*115 MMB*[b]	275 MMB or
	Bayou Choctaw (20 MMB)	
	Big Hill (80 MMB)	
	West Hackberry (15 MMB) OR	
Stratton Ridge, TX (160 MMB)	*116 MMB*[b]	276 MMB.
	Bayou Choctaw (20 MMB)	
	Big Hill (96 MMB)	
No-action alternative	None	None.

* Based on the proposed action for this EIS, DOE would not fill the SPR beyond 1 billion barrels if it developed more than 273 MMB of new capacity.
[a] Alternative considered in SA.
[b] Alternative considered in final EIS.

A brief description of each new site and expansion site is below:

Potential New Sites and Associated Infrastructure

As required by EPACT Section 303, DOE limited its review of potential new sites for expansion of the SPR to: (1) sites that DOE addressed in a 1992 draft EIS for site expansion (DOE/EIS–0165–D); and (2) sites proposed by a state in

which DOE has previously studied a site. Five sites met those conditions and were considered in the draft EIS: Richton, MS, and Stratton Ridge, TX, which were addressed in the 1992 draft EIS; Chacahoula and Clovelly, LA, which the Governor of Louisiana requested that the Secretary of Energy consider; and Bruinsburg, MS, which the Governor of Mississippi requested that the Secretary of Energy consider.

Subsequent to the publication of the draft EIS, DOE determined that development of a new SPR site at the Louisiana Offshore Oil Port's (LOOP) Clovelly facility was not feasible because of geotechnical issues and thus is not a reasonable alternative. LOOP's development on the salt dome and the small size of the dome required that DOE propose placing new SPR caverns below and in between Clovelly's existing caverns. DOE found that this configuration presented several risk factors to the integrity of the Clovelly caverns and infrastructure and overall operation of the proposed site. DOE therefore removed the site from detailed consideration in the final EIS.

Sandia National Laboratories completed a Geological Technical Assessment (Sandia Assessment) of the Bruinsburg salt dome just before the final EIS was published that indicated that the salt dome may not be able to provide the needed storage capability; however, DOE retained it as a potential new site in the final EIS because DOE needed time to further analyze the results of the study. See below for additional information regarding the Bruinsburg site and the Sandia Assessment.

Bruinsburg, MS

The Bruinsburg salt dome is located in Claiborne County, MS, 10 miles (16 kilometers) west of the town of Port Gibson and 40 miles (64 kilometers) southwest of the City of Vicksburg. The proposed storage site of approximately 266 acres (108 hectares) encompasses a cypress swamp, cotton fields, forested areas, and a bluff overlooking the Mississippi River. The infrastructure associated with the Bruinsburg storage site would include new terminals with a tank farm at Peetsville, MS, and Anchorage, LA. Water for cavern development, maintenance, and drawdown would come from the Mississippi River.

The Sandia Assessment is based on a comprehensive evaluation of all data readily available from both published and oil-industry sources. These data are from well and seismic studies and include data compiled by the Mississippi Department of Environmental Quality, Office of Geology, as well as proprietary seismic data. In addition, Sandia contracted for two new seismic survey lines on the Bruinsburg salt dome in order to define the extent of the salt formation available for cavern development. DOE has analyzed the results of the Sandia Assessment and concluded that the Bruinsburg salt dome only has the capacity to store up to 70 MMB of oil, which is less than the 160 MMB capacity required.

Chacahoula, LA

The Chacahoula salt dome site is located 40 miles (64 kilometers) north of the Gulf of Mexico in northwestern Lafourche Parish, southwest of Thibodaux, LA. The proposed storage site of approximately 227 acres (92 hectares) lies largely underwater in wetlands. No new terminals would be required for this proposed new site since the terminal(s) already exist and the current distribution capacity is sufficient to handle the potential increase in oil storage and distribution associated with the Chacahoula site. Water for cavern development, maintenance, and drawdown would come from the Intracoastal Waterway.

Richton, MS

The Richton salt dome is located in northeastern Perry County, MS, 18 miles (29 kilometers) east of Hattiesburg, MS. The proposed storage site of approximately 238 acres (96 hectares) is comprised of an actively managed pine plantation with a small emergent wetland area. The infrastructure associated with the Richton storage site would include new terminals with a tank farm at Liberty, MS, and Pascagoula, MS. Water for cavern development, maintenance, and drawdown would come from both the Leaf River and the Gulf of Mexico at Pascagoula.

Stratton Ridge, TX

The Stratton Ridge salt dome is located in Brazoria County, TX, 3 miles (4.8 kilometers) east of Lake Jackson-Angleton, TX. The proposed storage site of approximately 269 acres (109 hectares) is currently used for cattle ranching and has some forested wetlands. The infrastructure associated with the Stratton Ridge storage site would include a new terminal with a tank farm in Texas City, TX. Water for cavern development, maintenance, and drawdown would come from the Intracoastal Waterway.

Potential Expansion Sites and Associated Infrastructure

Bayou Choctaw, LA

The Bayou Choctaw storage site occupies a 356-acre (144-hectare) site in Iberville Parish, LA, about 12 miles (19 kilometers) southwest of Baton Rouge. The Mississippi River is located about 4 miles (6.4 kilometers) east of the salt dome, and the Intracoastal Waterway is about 0.5 miles (0.8 kilometers) to the west. The general area is swampy with an elevation ranging from less than 5 feet (1.5 meters) to more than 10 feet (3 meters) above mean sea level. Water for cavern development, maintenance, and drawdown would come from the Intracoastal Waterway.

In the final EIS, DOE considered the expansion of the Bayou Choctaw site by 20 MMB, which would involve the development of two new 10 MMB caverns within the existing boundaries of the facility, a 0.6-mile (0.9-kilometer) brine disposal pipeline, and a 96-acre (39-hectare) brine injection field. In the SA, DOE considered the expansion of the Bayou Choctaw site by 33 MMB, which would involve the development of two new 11.5 MMB caverns within the existing boundaries of the facility and use of an existing commercial cavern. The length of the brine disposal pipeline and the size of the brine disposal injection field would be the same if Bayou Choctaw is expanded to 20 MMB or 33 MMB. Expansion beyond 33 MMB is limited due to the size of the salt dome.

Big Hill, TX

The Big Hill SPR storage site is located in Jefferson County, TX, 17 miles (27 kilometers) southwest of Port Arthur. The existing site occupies approximately 250 acres (101 hectares). The surrounding area is predominantly rural with agricultural production as the primary land use. Water for cavern development, maintenance, and drawdown would come from the Intracoastal Waterway. The Big Hill storage site has a current capacity of 170 MMB and could be expanded by acquiring land and developing several additional caverns.

West Hackberry, LA

The West Hackberry SPR storage site occupies a 565-acre (229-hectare) site in Cameron and Calcasieu Parishes in southwestern Louisiana. The site is located approximately 20 miles (32 kilometers) southwest of the city of Lake Charles and 16 miles (26 kilometers) north of the Gulf of Mexico. The area is predominantly disturbed grassland habitat. No new infrastructure would be

needed for this site to be expanded. The West Hackberry storage site has a current capacity of 227 MMB and could also be expanded by acquiring land and developing or acquiring additional caverns. However, the West Hackberry site no longer has the offshore brine disposal system necessary to support a cavern development operation. There are three existing commercial caverns on the salt dome that could be acquired to increase the site capacity by 15 MMB, to a total capacity of 242 MMB, without developing new caverns. Therefore, DOE has considered a maximum potential expansion of 15 MMB at the West Hackberry site.

Preferred Alternative

The final EIS identifies the Richton alternative with expansion of Bayou Choctaw, Big Hill, and West Hackberry as the Preferred Alternative. The SA revised the Preferred Alternative to be the Richton alternative with expansion of Bayou Choctaw and Big Hill.

Analysis of Environmental Impacts

In making its decision, DOE considered the environmental impacts that could occur from the construction and operation of a new SPR storage site and the expansion of two or three of the existing sites. The final EIS presents the environmental impacts for 10 resource areas. Of these 10 areas, the largest potential impacts are to land use, water resources, biological resources, and cultural resources. Although impacts occur in other resource areas, these impacts are smaller and of similar magnitude across all alternatives. Below is a brief summary of the impacts associated with these four resource areas for each alternative. For each alternative, there is a discussion of each new site and the expansion sites associated with each new site.

Land Use

Bruinsburg Alternatives: There is a potential land use conflict for the Bruinsburg site where the expansion of an existing pipeline route would cross the Natchez Trace National Scenic Trail, Natchez Trace Parkway, and the proclamation boundary of the Homochitto National Forest.

There are no potential land use conflicts at the Bayou Choctaw and Big Hill expansions sites. At West Hackberry, there were no land use conflicts at the time that the final EIS was issued because there were no ongoing commercial operations in the caverns in the West Hackberry salt dome. Comments on the final EIS indicate that Sempra Pipeline and Storage Corporation plans to use the caverns for commercial operations. This potential conflict is discussed further below in the Comments Received on the Final EIS and Basis for Decision sections.

Chacahoula Alternatives: There are no potential land use conflicts for the Chacahoula site. Potential land use conflicts at the expansion sites are the same as described for the Bruinsburg alternatives.

Richton Alternatives: For the Richton site, the terminal, tank farm, refurbished docks, and raw water intake structure at Pascagoula would be at the former Naval Station Pascagoula, a Base Realignment and Closure site for which future uses have not been determined. Potential land use conflicts at the expansion sites are the same as described for the Bruinsburg alternatives.

Stratton Ridge Alternatives: The proposed Stratton Ridge site would have potential land use conflicts with Dow Chemical Company's use of salt from the Stratton Ridge salt dome and where a corridor containing a raw water intake pipeline, brine disposal pipelines, and two power lines would cross the Brazoria National Wildlife Refuge and privately owned land in the Refuge's proclamation area. In addition, the crude oil pipeline would cross the Refuge in an existing pipeline rights-of-way. Potential land use conflicts at the expansion sites are the same as described for the Bruinsburg alternatives.

Water Resources

Bruinsburg Alternatives: Construction and operation of the Bruinsburg site and associated infrastructure would potentially affect 35 water bodies. Water for cavern development, maintenance, and drawdown would come from the Mississippi River, and would not have a significant impact on water resources.

Construction and operation associated with the expansion of the Bayou Choctaw, Big Hill, and West Hackberry sites and associated infrastructure would potentially affect 12, 4, and 3 water bodies, respectively. Water for cavern development, maintenance, and drawdown at Bayou Choctaw would come from Cavern Lake, which is fed by the Intracoastal Waterway. Water for cavern development, maintenance, and drawdown at Big Hill would come from the Intracoastal Waterway. Water for maintenance and drawdown at West Hackberry would come from the Intracoastal Waterway. None of these uses of water would have a significant impact on water resources. Since DOE would acquire caverns at West Hackberry, construction of new caverns would not occur at this site. A small increase in the size of the security buffer around the site would be needed, but this would not have a significant impact on water resources.

Chacahoula Alternatives: Construction and operation of the Chacahoula site and associated infrastructure would potentially affect 18 water bodies. Water for cavern development, maintenance, and drawdown would come from the Intracoastal Waterway, which would not have a significant impact on water resources. Impacts on water resources at the expansion sites are the same as described for the Bruinsburg alternatives.

Richton Alternatives: Construction and operation of the Richton site and associated infrastructure would potentially affect 63 water bodies. The primary raw water source for cavern development, maintenance, and drawdown would be the Leaf River, which has a highly variable flow. A secondary raw water intake system, presented in the final EIS, would withdraw water from the Gulf of Mexico at Pascagoula and transport it to the Richton storage site for cavern development, maintenance, and drawdown during low flow conditions in the Leaf River. If low flow conditions exist in the Leaf River during a drawdown event for a Presidentially declared national emergency, DOE would withdraw water from the Gulf of Mexico and from the Leaf River to reach the necessary distribution rate. DOE would not withdraw water below the minimum instream flow that is protective of aquatic resources, except for a drawdown for a Presidentially declared national emergency. The U.S. Fish and Wildlife Service (USFWS) would establish the minimum instream flow during DOE's consultation with USFWS under Section 7 of the Endangered Species Act; the Mississippi Natural Heritage Program (MS NHP) would provide input during this consultation. Impacts on water resources at the expansion sites are the same as described for the Bruinsburg alternatives.

Stratton Ridge Alternatives: Construction and operation of the Stratton Ridge site and associated infrastructure would potentially affect 17 water bodies. Water for cavern development, maintenance, and drawdown would come from the Intracoastal Waterway, which would not have a significant impact on water resources. Impacts on water resources at the expansion sites are the same as described for the Bruinsburg alternatives.

Biological Resources

This summary of impacts to biological resources considers Federally threatened and endangered species, essential fish habitat (EFH), and wetlands. Impacts to these resources at expansion sites are common to all alternatives and are described first, separately from the descriptions of impacts of the alternatives, which focus on impacts at the new sites.

Expansion at existing sites would not affect any Federally threatened or endangered species. The Bayou Choctaw and West Hackberry expansions would not affect EFH. The Big Hill expansion would cause a temporary impact to about five acres of EFH due to pipeline construction.

The discussions below regarding total wetland acres affected for the new site alternatives include the wetland impacts associated with the expansion sites, in all cases including expansion at West Hackberry (without which five fewer acres of wetlands would be affected).

Expansion sites: Construction and operation of the Bayou Choctaw expansion site would potentially affect 34 acres of wetlands. About 24 acres of ecologically important forested wetlands would be filled and about 3 acres of forested wetlands would be permanently converted to emergent wetland. Construction and operation of the Big Hill expansion site would potentially affect 189 acres of wetlands. About 9 acres of ecologically important forested wetlands would be filled and about 1 acre of forested wetlands would be permanently converted to emergent wetland. Expanding the West Hackberry site would convert 5 acres of palustrine scrub-shrub wetlands to emergent wetlands.

Bruinsburg Alternatives: The Bruinsburg site and associated infrastructure may affect the fat pocketbook mussel and the pallid sturgeon, both of which are Federally endangered species. The site and associated infrastructure would not affect EFH.

The Bruinsburg alternatives would potentially affect about 708 acres (287 hectares) of wetlands. This includes a permanent loss through filling of about 156 acres (63 hectares) and a permanent conversion to emergent wetlands of about 123 acres (50 hectares) of relatively rare and ecologically important forested wetlands. About 118 acres (48 hectares) of forested wetlands would be disturbed and cleared by construction activities within the temporary easement of the rights-of-way during construction. The total affected acreage includes the three expansion sites described above.

Chacahoula Alternatives: The Chacahoula site and associated infrastructure may affect the bald eagle, a Federal threatened species that is proposed for de-listing, and the brown pelican, a Federal endangered species. Chacahoula would affect about 1,067 acres of EFH, for the most part a temporary impact due to pipeline construction.

The Chacahoula alternatives would potentially affect 2,502 acres (1,013 hectares) of wetlands. About 182 acres (74 hectares) of ecologically important forested wetlands would be filled and about 699 acres (283 hectares) of forested wetlands would be permanently converted to emergent wetland. About 505 acres (204 hectares) of forested wetlands would be disturbed and cleared by construction activities within the temporary easement of the rights-of-way. The total affected acreage includes the three expansion sites described above.

Richton Alternatives: The Richton site and associated infrastructure may affect two Federal listed species (the yellow-blotched map turtle and the Gulf sturgeon) and a Federal candidate species (the pearl darter, considered by DOE as a ''listed species''). Based on comments from and consultation with USFWS and MS NHP, the withdrawal of water from the Leaf River may have an adverse effect on the yellow-blotched map turtle, Gulf sturgeon, and the pearl darter. The Leaf River and Mississippi Sound are designated critical habitat for the Gulf sturgeon. Development of the Richton site would temporarily affect about 183 acres of EFH due to construction, and fill an additional 43 acres of EFH for a new terminal and raw water intake structure at Pascagoula. Brine pipeline construction may affect submerged aquatic vegetation.

The Richton alternatives would potentially affect 1,557 acres (630 hectares) of wetlands. The majority of the wetland areas affected (more than 1,400 acres [583 hectares]) by the Richton alternatives would be located in the long pipeline rights-of-way, which total over 200 miles and which pass through some forested and emergent wetlands. The Richton alternatives would permanently fill about 59 acres (24 hectares) of forested wetlands and about 295 acres (119 hectares) of forested wetlands would be permanently converted to emergent wetlands. About 506 acres (205 hectares) of forested wetlands would be disturbed and cleared by construction activities within the temporary easement of the rights-of-way. The total affected acreage includes the three expansion sites described above.

Stratton Ridge Alternatives: The Stratton Ridge site and associated infrastructure may affect the bald eagle, a Federal threatened species that is proposed for de-listing. Seventeen acres of EFH would be permanently affected due to the construction and operation of a raw water intake structure.

The Stratton Ridge alternatives would potentially affect 841 acres (349 hectares) of wetlands. This includes a permanent loss through filling of 227 acres (92 hectares) of relatively rare and ecologically important forested wetlands. About 70 acres (28 hectares) of forested wetlands would be permanently converted to emergent wetlands. About 9 acres (4 hectares) of forested wetlands would be disturbed and cleared by construction activities within the temporary easement of the rights-of-way. The total affected acreage includes the three expansion sites described above in detail for the Bruinsburg alternatives.

Cultural Resources

The proposed action would have the potential to damage or destroy archeological sites, Native American cultural sites, or historic buildings or structures; or to change the characteristics of a property that would diminish qualities that contribute to its historic significance or cultural importance. Below are the potential impacts for each alternative:

Bruinsburg Alternatives: SPR development at the Bruinsburg site could result in potential adverse effects on the historic setting of the Civil War landing of the Union Army in Mississippi and an associated route of troop movements in an area that could become eligible for the National Register of Historic Places as a core study area. A portion of the Bruinsburg site is likely to contain archeological remains of troop presence, and remains of at least one of the ships that sank during the invasion is likely to lie northwest of the facility boundary. There would be possible effects to Native American sites at Bayou Choctaw, Big Hill, and West Hackberry. As described in the final EIS, these adverse effects could be mitigated through measures such as data recovery from an archaeological site, preparation of education materials for the public, or use of vegetation to screen project facilities from visitors in the historic properties.

Chacahoula Alternatives: There would be likely adverse effects to Native American and historic sites along Chacahoula pipeline rights-of-way that could be mitigated. There would be

possible effects to Native American sites at Bayou Choctaw, Big Hill, and West Hackberry. These adverse effects could be mitigated.

Richton Alternatives: There are likely adverse effects to Native American archaeological sites within the Richton storage site and along Richton pipeline rights-of-way that could be mitigated. There would be possible effects to Native American sites at Bayou Choctaw, Big Hill, and West Hackberry. These effects could be mitigated.

Stratton Ridge Alternatives: There are likely adverse effects to Native American archaeological sites within the Stratton Ridge storage site and along Stratton Ridge pipeline rights-of-way that could be mitigated. There would be possible effects to Native American sites at Bayou Choctaw, Big Hill, and West Hackberry. These effects could be mitigated.

Comments Received on the Final EIS

DOE received eight comment letters on the final EIS: three letters from elected officials, two from Federal agencies, two from private companies, and one from a property owner. Below is a brief summary of each comment letter and DOE's response.

DOE received two comment letters regarding DOE's selection of Richton rather than Bruinsburg as its preferred new storage site. These comment letters were from U.S. Congressman Bennie G. Thompson, Second District, Mississippi, and Mr. Allen Burks of the Claiborne County Board of Supervisors. Congressman Thompson expressed some concerns with the selection of Richton and his belief that the Bruinsburg site is a more favorable site since it would have fewer environmental impacts and cost less than the Richton site. Mr. Burks requested the reconsideration of the Bruinsburg site because, in his view, it offers significant cost, environmental, operational, and distribution advantages over the Richton site. DOE did not select the Bruinsburg site for several reasons, as discussed below; however, the primary reason was the small size of the salt dome. As discussed above, based on the Sandia Assessment, DOE concluded that the Bruinsburg salt dome only has the capacity to store up to 70 MMB of oil, which is less than the 160 MMB capacity required. The Richton salt dome, on the other hand, is very large and can easily accommodate the planned capacity of 160 MMB.

Congressman Thompson also expressed concerns regarding the risk from hurricanes and brine disposal impacts associated with the Richton site. The SPR's storage of oil in underground storage caverns in salt formations is the safest and most secure form of storage available. The depth of the storage caverns and the self-sealing characteristic of the salt formation make salt dome storage virtually immune to natural disasters, such as hurricanes, and would not create a safety hazard for the population of Mississippi. In addition, Richton's location over 80 miles from the Gulf coast provides a significant land mass buffer against potential damages from the hurricane effects to surface buildings and structures at the storage sites. Congressman Thompson also expressed concern about brine disposal in the Gulf of Mexico. Based on DOE's experience with the SPR, the disposal of brine in the Gulf of Mexico has been proven to be reliable and cost effective and has had no harmful impacts on the fish population.

Mississippi Governor Haley Barbour supported the selection of Richton as preferred, but added that he believes Bruinsburg remains an important site for future consideration. Governor Barbour submitted for the record an independent geological evaluation prepared by Mr. Karl Kaufman of Valioso Petroleum Company, Inc., that questions the completeness and accuracy of the geological interpretations presented in the Sandia Assessment. Mr. Kaufman stated that the Sandia Assessment grossly understates the true areal extent of the Bruinsburg salt dome because well control data have been ignored, spatial uncertainty has not been resolved and additional data have not been considered. A second comment letter from Charles Morrison Consulting Geophysicist, Inc., stated that the Sandia Assessment was highly flawed and possibly biased in regard to the geological and geophysical conclusions reached.

DOE and the geotechnological staff at Sandia National Laboratories have reviewed the concerns expressed by these geological consultants and have confirmed their prior geological findings, as to the insufficient salt dome size. The Sandia Assessment is based on a comprehensive evaluation of all data readily available from both published and oil-industry sources, including both existing and new well and seismic data, as discussed above.

Sempra Pipeline and Storage Corporation submitted a comment informing DOE of its recent purchase of the property adjacent to the existing West Hackberry site, formerly owned by Dominion Natural Gas Storage, Inc., which DOE discussed in the final EIS. Sempra stated that the property is a critical part of its natural gas infrastructure portfolio, and is expected to be in service in April 2009. Sempra also stated its understanding that DOE would weigh the cost of land acquisition during its decisionmaking. DOE has not selected West Hackberry for expansion for the reasons stated below.

A comment submitted by the owner of land that overlays a salt dome in Claiborne County inquired whether DOE will select other storage sites, in addition to the Richton site. DOE will only construct one new storage site in its planned expansion of the SPR to 1 billion barrels.

The National Park Service's Natchez Trace Parkway stated its support for the selection of Richton as the preferred alternative because it would have no environmental effect on the Parkway. The U.S. Department of Agriculture, Natural Resources Conservation Service field office in Temple, TX, acknowledged and approved of the characterization of important farmlands for the Big Hill and Stratton Ridges sites in the final EIS.

Environmentally Preferable Alternative

The Chacahoula, Bruinsburg, Richton, and Stratton Ridge alternatives, which include the expansion of existing storage sites, all have the potential for adverse impacts on environmental resources. After considering the impacts to each resource, DOE has identified the Bruinsburg and Stratton Ridge alternatives as the environmentally preferable alternatives. The Chacahoula alternatives would affect hundreds more acres of ecologically important forested wetlands than any other alternative. The wetlands at the proposed Chacahoula site are also relatively contiguous and in a mostly undisturbed area in Louisiana, which adds to the ecological function and value of the wetlands. The Richton alternatives would affect several hundred acres of wetlands through more than 200 miles of pipeline and power line rights-of-way. Most of the wetland impacts associated with the Richton alternatives, however, would either be temporary or be a permanent conversion, meaning that some of the function of the wetlands would be retained. Nonetheless, total acreage of wetlands affected from rights-of-way for the Richton alternatives would be greater than from the Stratton Ridge or Bruinsburg alternatives. USFWS and MS NHP identified two Federally listed species and a Federal candidate species that may be adversely affected by the withdrawal of water from the Leaf River. The Richton alternatives are also the only alternatives that may affect

designated critical habitat of a protected species.

Floodplain Statement of Findings

DOE included a Floodplains and Wetlands Assessment as appendix B in the final EIS. The assessment and these findings have been prepared in accordance with DOE's regulations ''Compliance with Floodplain and Wetland Environmental Review Requirements,'' 10 CFR Part 1022. DOE has concluded that there are no practicable alternatives to construction within floodplains for the individual proposed new SPR sites or expansion sites. Site locations, the location of onsite facilities, and site access roads are dictated by the locations and configuration of the salt domes, which constitute a unique geologic setting. In addition, DOE needs a raw water source that is adequate for solution mining of storage caverns. Similarly, because the salt dome sites are largely located in lowland areas surrounded by wide expanses of floodplain, there are no practicable alternatives to the location of the pipelines running to and from these sites within floodplains. The raw water intake structures and associated pipeline rights-of-way also are water dependent because of their function and therefore cannot be located outside of the floodplain associated with the water source. Pipelines, power lines, and roads cannot avoid crossing waterways and the associated floodplains. DOE considered alternatives for minimizing the potential impacts of pipeline and power line rights-of-way in floodplains and wetlands. The primary approach that DOE employed was to select pipeline and power line rights-of-way along existing rights-of-way. The Gulf Coast consists of a large number of gas and oil fields and associated facilities, which offer a network of existing pipeline and power line rights-of-way. This network of utilities enabled DOE to minimize the potential impacts to floodplains and wetlands. Floodplain maps of all the alternatives considered in the EIS are available in appendix B of the final EIS.

To comply with Executive Order 11988, Floodplain Management, and DOE's regulations, DOE will follow the U.S. Water Resources Council's (1978) Floodplain Management Guidelines for Implementing Executive Order 11988 and the Federal Emergency Management Agency's Unified National Program for Floodplain Management while planning its mitigation strategy for the selected SPR alternative. Those actions would include the following: the use of minimum grading requirements to save as much of the site from compaction as possible; returning the site and rights-of-way to original contours where feasible; preserving free natural drainage when designing and constructing roads, fills, and large built-up centers; maintaining wetland and floodplain vegetation buffers to reduce sedimentation and discharge of pollutants to nearby water bodies, where feasible; constructing stormwater management facilities (where appropriate) to minimize any alteration in natural drainage and flood storage capacity; directional drilling of larger wetland and stream crossings, where feasible; locating buildings above the base flood elevation or flood proofing; complying with the floodplain ordinance/regulations for the jurisdiction where the selected alternative is located; and performing a hydrological demonstration (using the U.S. Army Corps of Engineers' Hydrologic Engineering Center, Hydrologic Modeling System or an approved floodplain model) to confirm that proposed fill and structures within the floodplain would not increase the base flood elevation.

Any structures located within the floodplain would be designed in accordance with the National Flood Insurance Program (NFIP) requirements for nonresidential buildings and structures located in special flood hazard areas. The NFIP regulations require vulnerable structures to be constructed above the 100-year flood elevation or to be watertight. DOE would coordinate with and secure approval from the floodplain coordinator at the appropriate state agency or the local government, if it has adopted the NFIP, during the design stage/site plan process.

Decision

DOE has decided to: construct a new storage facility at Richton, MS, with a total capacity of 160 MMB of crude oil; expand the storage capacity of two existing SPR sites by a total of 113 MMB by developing 8 new 10–MMB caverns at Big Hill, TX, developing 2 new 11.5–MMB caverns at Bayou Choctaw, LA, and acquiring an existing privately-owned 10–MMB cavern that lies within the Bayou Choctaw site; and fill the SPR to 1 billion barrels, as authorized by Congress.

Basis for Decision

DOE's decision is based on careful consideration of the environmental impacts of the alternatives along with an evaluation of SPR distribution capabilities, geological technical assessments, projected costs, and operational impacts associated with existing commercial operations.

The Stratton Ridge alternatives were not selected based on the new storage site's location within the Seaway crude oil distribution complex and the site's potential impacts to existing commercial operations. The SPR currently has two large sites, Bryan Mound and Big Hill, which can adequately serve refiners in the Seaway distribution complex. Additional storage in this area would not enhance the SPR's distribution capabilities or address the SPR's need for increased oil storage in the Capline distribution complex, which serves the refiners on the lower Mississippi River and the Capline Interstate Pipeline system. In addition, Dow Chemical Company, which occupies the majority of the Stratton Ridge salt dome, relies on the salt for its petrochemical operations. Dow submitted comments on the draft EIS stating that the property is critical to its future salt needs and continuing operations of Dow Chemical in Freeport, TX.

The primary reason for not selecting the Bruinsburg alternatives is the small size of the salt dome, which only has the capacity to store up to 70 MMB of oil, as discussed above. Also, due to its location, development of the caverns at Bruinsburg would require disposing of large volumes of brine through underground disposal wells. DOE has extensive experience with underground brine disposal wells for smaller volumes. Injection wells can be difficult and expensive to operate, the geology must be appropriate for wells to be drilled, and the receiving aquifer must be hydrologically suited for injections. Disposing of large volumes of brine through underground injection at Bruinsburg presents significant development risks.

The Chacahoula alternatives were not selected based on significant potential environmental impacts to the Louisiana wetlands. The entire site is located in an ecologically important bald cypress forested wetland area. The alternatives were estimated to potentially impact a total of 2,502 acres of wetlands, requiring extensive wetland mitigation.

The Richton alternatives present significant benefits relative to the other alternatives by enhancing the SPR's oil distribution capabilities with connections to the Capline Pipeline System as well as refineries and marine facilities in Pascagoula. The Richton salt dome is large and undeveloped, which provides DOE with sufficient capacity to develop 160 MMB of storage space without potential impacts to other commercial operations or high geotechnical risk. The Richton site is also located approximately 80 miles

from the Gulf coast, providing a significant buffer to the potentially damaging effects of hurricanes on surface structures at the storage site.

The decision announced by DOE in this ROD differs from the Preferred Alternative identified in the final EIS, which included expanding the storage capacity of 3 existing SPR facilities (West Hackberry and Bayou Choctaw, LA, and Big Hill, TX) by a total of 115 MMB, and constructing a new 160–MMB SPR facility at Richton, MS. The ROD replaces the planned expansion of West Hackberry (by 15 MMB) with a larger expansion of storage capacity at Bayou Choctaw (by 33 MMB instead of 20 MMB). This decision was based on: (a) The recent acquisition by a private company of the existing caverns at West Hackberry; (b) the need for additional stocks at Bayou Choctaw to address refiner demands; and (c) the need for an additional cavern at Bayou Choctaw to support the site's maximum drawdown operations.

In comparing expansion options at Bayou Choctaw and West Hackberry, DOE considered several factors. First, as discussed in the final EIS, the three commercial caverns that DOE had proposed to acquire at West Hackberry were purchased by Sempra Pipelines and Storage Corporation in August 2006 as part of its Liberty Gas Storage System and in conjunction with the Cameron Liquefied Natural Gas (LNG) terminal (currently under construction). As discussed above, Sempra has submitted comments on the final EIS stating that the property is a critical part of its natural gas infrastructure portfolio and the West Hackberry storage facility is expected to be in service in April 2009. As a result, DOE may not be able to acquire the West Hackberry caverns at a reasonable cost.

Second, DOE needs additional crude stocks at Bayou Choctaw to address the refiners' demands along the Mississippi River. The new 160–MMB facility at Richton, MS, will have the capability to distribute crude via pipeline to the Capline Pipeline System serving refiners in the Midwest, but not to refiners along the lower Mississippi River. The SPR facility at Bayou Choctaw has the capability to distribute oil by pipeline to a number of refiners along the Mississippi River, but is very limited in its current crude storage capabilities. As these refiners are highly dependent on foreign crude supplies, the expected demand during a supply interruption would far exceed the inventories currently available at Bayou Choctaw. This situation is expected to worsen in the future by the announced doubling of crude processing capacity of the Marathon refinery at Garyville, LA.

Third, an additional storage cavern at Bayou Choctaw supports the site's maximum drawdown capabilities. Due to the location of one of the existing caverns at the edge of the salt dome, DOE has placed constraints on the cavern's capacity and operations. An additional cavern would be of significant benefit to achieving and maintaining the site's maximum drawdown rate in the event of a drawdown of the Reserve.

For these reasons, DOE has concluded that increasing the storage capacity at Bayou Choctaw to 33 MMB, in lieu of an expansion at West Hackberry, will provide greater benefits to the SPR in terms of enhanced oil import protection capability. This proposed increase in the storage capacity at Bayou Choctaw is also considered superior to the option of increasing the capacity of the Big Hill site by 96 MMB, which would not satisfy the need for additional Capline system stocks and would increase the Big Hill site storage capacity to more than 250 MMB, creating the need for additional oil drawdown and distribution infrastructure.

Based on the SA, DOE determined that the additional expansion at Bayou Choctaw is not a substantial change to the proposed action that is relevant to environmental concerns, and there are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, within the meaning of 40 CFR 1502.9(c)(1) and 10 CFR 1021.314(c). Therefore, a supplement to the SPR final EIS is not needed.

In conclusion, the selection of a new site at Richton with expansion of the existing Bayou Choctaw and Big Hill sites offers DOE significant benefits by enhancing the SPR's oil distribution capabilities with connections to the Capline Pipeline System, refiners along the lower Mississippi River, as well as refineries and marine facilities in Pascagoula. The Richton salt dome provides DOE with sufficient capacity to develop 160 MMB of storage space without potential impacts to other commercial operations or high geotechnical risk.

Mitigation

DOE has developed general mitigation measures to address potential impacts. Examples of general mitigation include programmatic agreements for dealing with impacts to cultural resources. Under the terms of programmatic agreements signed by DOE, the State Historic Preservation Officers (SHPOs) in the three states where the Richton site and the Bayou Choctaw and Big Hill expansion sites are located, the Advisory Council on Historic Preservation, and tribes, as appropriate, DOE will identify and resolve adverse effects to historic properties in locations selected for expansion or new development. At those locations, DOE will conduct field reconnaissance and additional documentary research and consultations as appropriate to identify cultural resources including historic properties; that is, archaeological or historical sites, structures, districts, or landscapes that are eligible for listing in the National Register of Historic Places. For identified historic properties, DOE will assess potential project effects and resolve adverse effects in consultation with the SHPOs and the tribes that are concurring parties or signatories to the programmatic agreements.

The wetlands permitting process provides other examples of general mitigation measures. DOE will prepare the appropriate application for a Section 404 Permit from the U.S. Army Corps of Engineers and the 401 Water Quality Certificate from each relevant state agency. This permit process requires a comprehensive analysis of alternatives to avoid impacts to jurisdictional wetlands and waters of the United States, an analysis of measures taken to minimize impacts, and a compensation plan to mitigate for unavoidable impacts to waters of the United States, including wetlands. Avoidance and minimization strategies could include measures such as refinement or modification of facility footprints to avoid wetlands, minimization of slopes in fill areas, use of geotechnical fabric under wetland fills to minimize mudwave potential, and restoration of the disturbed wetlands outside the permanent footprint of the facility. The compensation plan will be developed by DOE and submitted with the permit application. The compensation plan, in addition to avoidance and minimization strategies during and after construction, will include provisions for compensation sites (*e.g.*, conservation easements or similar mechanisms), restoration, and post restoration monitoring to evaluate the success of the mitigation. Additional detail on mitigation measures is included in section 3.7.2.1.3 of the final EIS, and on potential compensation sites in appendix O of the final EIS.

Mitigation measures specific to the selected Richton alternative have not been adopted at this time because DOE and the regulatory agencies agreed that the substantial amount of resources needed to develop mitigation measures

specific to each alternative during the preparation of the EIS would have been impracticable and inefficient in light of the large number of alternatives located across three states and crossing numerous agency jurisdictional boundaries.

Instead, DOE will work with USFWS, National Oceanic and Atmospheric Administration (NOAA) Fisheries, U.S. Army Corps of Engineers, EPA, and other Federal, state, and local natural resource agencies to develop specific mitigation measures for unavoidable impacts to endangered species, EFH, wetlands, and other resources, as described in the final EIS. The mitigation plan for the alternative selected in this ROD will be developed during the permitting process, after wetland delineations and jurisdictional determinations and a functional assessment of affected wetlands is completed. DOE will also complete a formal consultation with USFWS and NOAA Fisheries and prepare a Biological Assessment as mandated under Section 7 of the Endangered Species Act for any endangered species that may be affected by the selected alternative. Through these activities, DOE will develop and adopt a detailed mitigation plan to take all practicable means to avoid or minimize environmental harm, as required by 40 CFR 1505.2(c).

Dated: February 14, 2007.

Samuel W. Bodman,

Secretary of Energy.

[FR Doc. E7–3022 Filed 2–21–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

FY 2007–2009 Fish and Wildlife Project Implementation Decision

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD for BPA's 2007–2009 Fish and Wildlife Project Implementation Decision. BPA has decided to implement certain new and ongoing fish and wildlife mitigation projects for Fiscal Years 2007 through 2009 that help meet the agency's responsibilities to protect, mitigate and enhance fish and wildlife affected by the development and operation of the Columbia River basin hydroelectric dams from which BPA markets power. This decision is consistent with and tiered to BPA's Fish and Wildlife Implementation Plan Environmental Impact Statement (DOE/EIS–0312, April 2003) and the Fish and Wildlife Implementation Plan ROD (October 31, 2003).

ADDRESSES: Copies of this ROD may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. This ROD and the Fish and Wildlife Implementation Plan EIS and ROD are also available on our Web site, *www.efw.bpa.gov.*

FOR FURTHER INFORMATION, CONTACT: Shannon Stewart, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail *scstewart@bpa.gov.*

Issued in Portland, Oregon, February 9, 2007.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E7–2998 Filed 2–21–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8279–8]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (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 currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1088.11; NSPS for Industrial-Commercial-Institutional Steam Generating Units (Renewal); in 40 CFR part 60, subpart Db); was approved 02/01/2007; OMB Number 2060–0072; expires 02/28/2010.

EPA ICR No. 1500.06; National Estuary Program (Renewal); in 40 CFR 35.9000—35.9070; was approved 01/29/2007; OMB Number 2040–0138; expires 01/31/2010.

EPA ICR No. 2232.01; Community Water System Survey 2006; was approved 01/29/2007; OMB Number 2040–0273; expires 01/31/2010.

EPA ICR No. 2072.03; NESHAP for Lime Manufacturing (Renewal); in 40 CFR part 63, subpart AAAAA; was approved 01/30/2007; OMB Number 2060–0544; expires 01/31/2010.

EPA ICR No. 1686.06; NESHAP for the Secondary Lead Smelter Industry (Renewal); in 40 CFR part 63, subpart X); was approved 01/30/2007; OMB Number 2060–0296; expires 01/31/2010.

EPA ICR No. 1353.08; Land Disposal Restrictions No-Migration Variances (Renewal); in 40 CFR 268.6 and 268.40; was approved 01/29/2007; OMB Number 2050–0062; expires 01/31/2010.

EPA ICR No. 2240.02; NESHAP for Area Sources: Polyvinyl Chloride and Copolymers Production, Primary Copper Smelting, Secondary Copper Smelting, and Primary Nonferrous Metals-Zinc, and Beryllium (Final Rule); in 40 CFR, section 11149(d)–(g), 11150(a)–(b), 11162(g), 11163(c)–(g), 11164(a)–(b) and Table 1 to subpart GGGGG; was approved 01/24/2007; OMB Number 2060–0596; expires 01/31/2010.

EPA ICR No. 1052.08; NSPS Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generating Units; in 40 CFR part 60, subpart D; was approved 01/19/2007; OMB Number 2060–0026; expires 01/31/2010.

EPA ICR No. 1949.05; Information Collection Request for the EPA National Environmental Performance Track Program; was approved 01/19/2007; OMB Number 2010–0032; expires 01/31/2010.

EPA ICR No. 1093.08; NSPS for Surface Coating of Plastic Parts for Business Machines (Renewal); in 40 CFR part 60, subpart TTT; was approved 01/19/2007; OMB Number 2060–0162; expires 01/31/2010.

EPA ICR No. 1128.08; NSPS for Secondary Lead Smelters (Renewal); in 40 CFR part 60, subpart L; was approved 01/18/2007; OMB Number 2060–0080; expires 01/31/2010.

EPA ICR No. 1084.08; NSPS for Nonmetallic Mineral Processing; in 40 CFR part 60 subpart OOO; was approved 01/18/2007; OMB Number 2060–0050; expires 01/31/2010.

EPA ICR No. 1569.06; Approval of State Coastal Nonpoint Pollution Control Programs (CZARA Section

6217); was approved 01/12/2007; OMB Number 2040–0153; expires 01/31/2010.

EPA ICR No. 1893.04; Federal Plan Requirements for Municipal Solid Waste Landfills (Renewal); in 40 CFR part 62, subpart GGG); was approved 01/12/2007; OMB Number 2060–0430; expires 01/31/2010.

EPA ICR No. 2219.02; Tips and Complaints Regarding Environmental Violations (Renewal); was approved 02/07/2007; OMB Number 2020–0032; expires 02/28/2010.

EPA ICR No. 2234.01; 2007 Drinking Water Infrastructure Needs Survey and Assessment; was approved 02/07/2007; OMB Number 2040–0274; expires 02/28/2010.

Short Term Extensions

EPA ICR No. 0234.09; Performance Evaluation Studies of Water and Waste Water Laboratories; OMB Number 2080–0021; on 01/19/2007 OMB extended the expiration date to 07/31/2007.

Comment Filed

EPA ICR No. 2243.02; Procedures for Implementing the National Environmental Policy Act (NEPA) and Assessing the Environmental Effects Abroad of EPA Actions (Proposed Rule); OMB filed comment on 01/30/2007.

Dated: February 13, 2007.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E7–3000 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0041; FRL–8279–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; RadNet (Previously Known as ERAMS) (Renewal); EPA ICR No. 0877.09, OMB Control No. 2060–0015

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0041, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Charles M. Petko, Office of Radiation and Indoor Air (ORIA), National Air and Radiation Environmental Laboratory (NAREL), 540 South Morris Avenue, Montgomery, Alabama 36115–2601. Tel: 334–270–3411; fax number: 334–270–3454; e-mail address: *petko.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 14, 2006 (71 FR 54278), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0041, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket and Information Center is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: RadNet (Renewal).

ICR Numbers: EPA ICR No. 0877.09, OMB Control No. 2060–0015.

ICR Status: This ICR is scheduled to expire on February 28, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: RadNet is a national network of stations collecting sampling media that include air, precipitation, drinking water, and milk. Samples are sent to EPA National Air and Radiation Environmental Laboratory (NAREL) in Montgomery, Alabama, where they are analyzed for radioactivity. RadNet provides emergency response/homeland security and ambient monitoring information on levels of environmental radiation across the nation. All stations, usually operated by state and local personnel, participate in RadNet voluntarily. Station operators complete information forms that accompany the samples. The forms request descriptive information pertaining to sample location, e.g., sample type, sample location, length of sampling period, and volume represented.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing

and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: All fifty states, primarily the State Public Health Departments (NAICS Code 92312), send samples along with one page sample collection forms to NAREL.

Estimated Number of Respondents: 275.

Frequency of Response: Frequency varies according to medium being sampled: milk, quarterly; drinking water, quarterly; rain (precipitation), as events occur; and air, twice weekly.

Estimated Total Annual Hour Burden: 9,333.

Estimated Total Annual Cost: $451,206.

Changes in the Estimates: There is an increase of 3,606 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to the fact that the RadNet air monitoring network is being upgraded and expanded. By the end of the period of this ICR, the air network will have expanded from the 64 conventional stations reported in the previous ICR to 120 technologically updated stations, all of which will provide data in near real-time.

Dated: February 15, 2007.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. E7–3002 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0411; FRL–8280–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Flexible Vinyl and Urethane Coating and Printing (Renewal), EPA ICR Number 1157.08, OMB Control Number 2060–0073.

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR that is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0411, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or *by mail to*: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) *OMB at*: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention*: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John Schaefer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Measurement Policy Group, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0296; fax number: (919) 541–3207; e-mail address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 21, 2006 (71 FR 35652), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0411, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744 and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NSPS for Flexible Vinyl and Urethane Coating and Printing.

ICR Numbers: EPA ICR Number 1157.08, OMB Control Number 2060–0073.

ICR Status: This ICR is scheduled to expire on February 28, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This Information Collection Request (ICR) renewal is being submitted for the NSPS for Flexible Vinyl and Urethane Coating and Printing (40 CFR part 60, subpart FFF), which were promulgated on June 29, 1984. These standards apply to the following facilities in subpart FFF: each rotogravure printing line used to print or coat flexible vinyl or urethane products, and for which construction, modification or reconstruction commenced after the proposed date of the rule. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60 subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart FFF.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14 (rounded) hours per response. Burden means the total time, effort, or financial resources

expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Flexible Vinyl and Urethane Coating and Printing Operations.

Estimated Number of Respondents: 20.

Frequency of Response: Initially and semi-annually.

Estimated Total Annual Hour Burden: 593.

Estimated Total Annual Cost: $97,135, which is comprised of annualized capital/startup costs of $6,600, $54,000 of O&M costs and $36,535 in labor costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: February 15, 2007.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. E7–3003 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0412; FRL–8279–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Ammonium Sulfate Manufacturing Plants (Renewal), EPA ICR Number 1066.05, OMB Control Number 2060–0032

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR that is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0412, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or *by mail to:* EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John Schaefer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Measurement Policy Group, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; *telephone number:* (919) 541–0296; *fax number:* (919) 541–3207; *e-mail address: schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 21, 2006 (71 FR 35652), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0412, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744 and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Ammonium Sulfate Manufacturing Plants (Renewal).

ICR Numbers: EPA ICR Number 1066.05, OMB Control Number 2060–0032.

ICR Status: This ICR is scheduled to expire on February 28, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This Information Collection Request (ICR) renewal is being submitted for the NSPS for Ammonium Sulfate Manufacturing Plants (40 CFR part 60, subpart PP), which were promulgated on November 12, 1980. These standards apply to each ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactam by-product, synthetic, and coke oven by-products sectors of the ammonium sulfate manufacturing industry for which construction, modification or reconstruction commenced after the date of the proposal. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60 subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart PP.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 61.5 hours per response. Burden means the total time, effort, or financial resources expended

by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Ammonium sulfate manufacturing plants.

Estimated Number of Respondents: 2.

Frequency of Response: Initially and semi-annually.

Estimated Total Annual Hour Burden: 246.

Estimated Total Annual Cost: $15,808, which includes $0 annualized capital start up costs, $0 annualized operating and maintenance costs (O&M) and $15,808 annualized labor costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: February 13, 2007.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E7–3004 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0414; FRL–8279–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; NSPS for Pressure Sensitive Tape and Label Surface Coating Operations, EPA ICR Number 0658.09, OMB Control Number 2060–0004

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR that is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0414, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) *OMB at:* Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John Schaefer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Measurement Policy Group, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; *telephone number:* (919) 541–0296; *fax number:* (919) 541–3207; e-mail address: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 21, 2006 (71 *FR* 35652), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0414, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744 and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Pressure Sensitive Tape and Label Surface Coating Operations (Renewal).

ICR Numbers: EPA ICR Number 0658.09, OMB Control Number 2060–0004.

ICR Status: This ICR is scheduled to expire on February 28, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This Information Collection Request (ICR) renewal is being submitted for the NSPS for Pressure Sensitive Tape and Label Surface Coating Operations (40 CFR part 60, subpart RR), which were promulgated on October 18, 1983. These regulations apply to each coating line used in the manufacture of pressure sensitive tape and label materials, and on which construction or reconstruction commenced after the proposal date. Facilities that input 45 megagrams of volatile organic compounds (VOC) or less per 12 month period are not subject to the emission limit established by the subpart. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60 subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart RR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 25 (rounded) hours per response. Burden means the total time, effort, or financial resources

expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pressure sensitive tape and label surface coating operations.

Estimated Number of Respondents: 37.

Frequency of Response: Initially and semi-annually.

Estimated Total Annual Hour Burden: 3,353.

Estimated Total Annual Cost: $263,323, which includes $7,000 annualized capital/start-up costs, $64,800 in annualized Operating & Maintenance (O&M) costs, and $191,523 in annualized Labor Costs.

Changes in the Estimates: There is an increase of 129 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to a correction.

Dated: February 13, 2007.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E7–3015 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0420; FRL–8279–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS and NESHAP for Wool Fiberglass Manufacturing Plants (Renewal), EPA ICR Number 1160.08, OMB Control Number 2060–0114

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0420, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T , 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert C. Marshall, Jr., Office of Compliance, 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564–7021; *fax number:* (202) 564–0050; *e-mail* address: *marshall.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 21, 2006 (71 FR 35652), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0420, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS and NESHAP for Wool Fiberglass Manufacturing Plants (Renewal).

ICR Numbers: EPA ICR Number 1160.08, OMB Control Number 2060–0114.

ICR Status: This ICR is scheduled to expire on February 28, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for the regulations published at 40 CFR part 60, subpart PPP were proposed on February 7, 1984, and promulgated on February 25, 1985. These regulations apply to each rotary spin wool fiberglass insulation manufacturing line, which commenced construction, modification, or reconstruction after February 2, 1984. The purpose of this NSPS is to control the emissions of particulate matter from each rotary spin wool fiberglass insulation manufacturing line. The standards limit particulate emissions to 5.5 kilograms per megagram (11.0 lb./ton) of molten glass used to manufacture the product.

The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the regulations published at 40 CFR part 63, subpart NNN were proposed on March 31, 1997, and promulgated on June 14, 1999. These regulations apply to each glass melting furnace located at a wool fiberglass manufacturing plant;

each rotary spin (RS) manufacturing line producing building insulation; each new and existing flame attenuation (FA) manufacturing line that produces pipe products; and each new FA manufacturing line that produces heavy density products. Plants that manufacture mineral wool from rock or slag are not subject to the proposed rule but are subject to a separate NESHAP standard for mineral wool production. A facility that is determined to be an area source would not be subject to this NESHAP standard. This information is being collected to assure compliance with 40 CFR part 60, subpart PPP and 40 CFR part 63, subpart NNN.

In general, all NSPS and NESHAP standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to both the NSPS and NESHAP.

Any owner or operator subject to the provisions of 40 CFR part 60, subpart PPP shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports, and records. Any owner or operator subject to the provisions of 40 CFR part 63, subpart NNN shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports for both the NSPS and NESHAP are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the United States Environmental Protection Agency (EPA) regional office.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 101 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Wool Fiberglass Manufacturing Plants.

Estimated Number of Respondents: 61.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 18,216.

Estimated Total Annual Cost: $1,599,551, that is comprised of no capital costs, $489,000 in O&M costs and $1,110,551 in labor costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR, and there is no change in burden to industry.

Dated: February 14, 2007.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. E7–3016 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0416; FRL–8279–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Automobile and Light Duty Truck Surface Coating Operations (Renewal), EPA ICR Number 1064.15, OMB Control Number 2060–0034.

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR that is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 26, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0416, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John Schaefer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Measurement Policy Group, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; *telephone number:* (919) 541–0296; *fax number:* (919) 541–3207; *e-mail address: schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 21, 2006 (71 FR 35652), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0416, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744 and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket

that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Automobile and Light Duty Truck Surface Coating Operations (Renewal).

ICR Numbers: EPA ICR Number 1064.15, OMB Control Number 2060–0034.

ICR Status: This ICR is scheduled to expire on February 28, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This Information Collection Request (ICR) renewal is being submitted for the NSPS for Automobile and Light Duty Truck Surface Coating Operations (40 CFR part 60, subpart MM), which were promulgated on December 24, 1980 (45 FR 85415). *These standards apply to the following automobile and light duty truck assembly plant lines:* each prime coat operation, guide coat operation, and top coat operation commencing construction, modification or reconstruction after the date of proposal. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60 subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart MM.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 745 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Automobile and light duty truck surface coating operations.

Estimated Number of Respondents: 54.

Frequency of Response: Initially, semi-annually, and quarterly.

Estimated Total Annual Hour Burden: 156,362.

Estimated Total Annual Cost: $9,733,981, which includes $1,700 annualized capital startup costs, $91,000 annualized operating and maintenance (O&M) costs, and $9,641,281 annualized labor costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: February 14, 2007.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. E7–3018 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0087; FRL–8114–6]

Insect Repellent-Sunscreen Combination Products; Request for Information and Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: EPA is seeking information to determine how insect repellent-sunscreen combination products should be regulated in order to complete the reregistration review which was described in the Reregistration Eligibility Decision (RED) document for the insect repellent DEET. This action would consider issues such as labeling, product performance and applicable safety standards for all currently (and any future) registered insect repellent-sunscreen combination products. The sunscreen components of these products are regulated by the Food and Drug Administration (FDA). Elsewhere in this issue of the **Federal Register** is a companion notice in which the FDA is also requesting information and comments on these products and for which the FDA will be considering rulemaking. The decision on what if any change in the way these products are regulated will consider information and comments submitted in response to this Notice.

DATES: Comments must be received on or before May 23, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0087, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0087. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically

captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT:

Richard Gebken, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6701; fax number: (703) 308-0029; e-mail address: *gebken.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those who currently have registered products or intend in the future to register any insect repellent-sunscreen combination products, as well as those individuals who use these products. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Currently, there are approximately 20 combination insect repellent/sunscreen products available for consumers. Each of these products contains an insect repellent component (N,N-diethyl-meta-toluamide (DEET), oil of citronella or IR3535)) and a sunscreen component. Combination products are available in lotion, cream, and spray-on formulations. These products are currently marketed for use by the entire family. These products provide consumers with the convenience of using one product as opposed to the use of multiple products. In addition, it has been suggested that these products, containing both insect repellent and sunscreen components in one formulation, preserve the efficacy of both components better than if a consumer were to apply the insect repellent product and the sunscreen product sequentially.

EPA is responsible for reevaluating previously registered pesticide products through a program called ''reregistration.'' In order to reregister a pesticide, EPA determines whether the product meets current scientific and statutory standards. Due to concerns about the potential conflict in labeling for the insect repellent and the sunscreen portions of the product, EPA postponed a reregistration eligibility decision (RED) on whether to reregister the combination DEET/sunscreen products until additional information could be obtained. This document solicits opinion and comment from the public to assist in determining how best to regulate these products.

These combination products are regulated by both EPA and FDA. EPA has regulatory authority over these products because of the insect repellent component and the sunscreen component is regulated by FDA. Both agencies are seeking comments to determine how these products should be regulated. (FDA's notice is located elsewhere in this issue of the **Federal Register**.) EPA and FDA will work together to develop a coordinated approach to the regulation of combination products.

1. Regulatory status of the insect repellent ingredients. EPA provides information to the public regarding the use of insect repellent products at the following web site: *http://www.epa.gov/pesticides/factsheets/chemicals/deet.htm* . Information detailed at that site provides the EPA-recommended precautions when using insect repellents, including (in part):

- Read and follow all directions and precautions on the product label.
- Do not apply over cuts, wounds, or irritated skin.
- Do not apply to hands or near eyes and mouth of young children.
- Do not allow young children to apply repellent products.
- Use just enough repellent to cover exposed skin and/or clothing.
- Do not use under clothing.
- Avoid over-application.
- After returning indoors, wash treated skin with soap and water.
- Wash treated clothing before wearing it again.
- Use may cause skin reactions in rare cases.

The following additional statements should appear on the labels of aerosol and pump spray formulation labels:

• Do not spray in enclosed areas.

• To apply to face, spray on hands first and then rub on face. Do not spray directly onto face.

There are currently three (3) insect repellent active ingredients used in combination with sunscreen (amounting to 20 currently registered combination products). These are: N,N-diethyl-meta-toluamide (DEET), oil of citronella and IR3535. Two other active ingredients are approved for use in insect repellent products, p-methane-3,8-diol and KBR 3023 (picaridin). Neither chemical, however, is currently available in a combination sunscreen formulation. Both DEET and oil of citronella have undergone reregistration which entailed an evaluation and analysis of the complete database for both chemicals. IR3535, picaridin, and p-methane-3,8-diol are newly registered chemicals which were evaluated during the registration process to ensure they met the statutory standard.

In December 1998, EPA completed reregistration and issued a Reregistration Eligibility Decision (RED) document for the pesticide DEET. DEET products, which are applied directly to skin and/or clothing, are available in numerous formulation types (e.g., aerosol sprays, non-aerosol sprays, creams, lotions, sticks, foams, and towelettes) and concentrations (products range from 4% active ingredient (a.i.) to 100% a.i.. DEET is an insect and mite repellent used in households/domestic dwellings, on the human body and on clothing, on cats, dogs and horses and in the living and sleeping quarters of pets.

Based on pesticide usage information mainly for 1990 (DEET RED), an average annual estimate of the domestic usage of DEET is 4 million pounds (active ingredient). About 30% of the U.S. population uses DEET as an insect repellent at least once a year (about 27% of adult males, 31% of adult females and 34% of children). Approximately 21% of U.S. households use DEET annually. About 19% of households use DEET on household members, and about 4% of households that have cats and/or dogs use DEET on those pets (DEET RED).

As EPA indicated in the DEET RED: ''The Agency is concerned about consumer use of products that combine sunscreen and DEET, since the directions to reapply sunscreens generously and frequently may promote greater use of DEET than needed for pesticidal efficacy, and thus pose unnecessary exposure to DEET''. DEET labels currently recommend that products be used sparingly and not be reapplied too often. Sunscreen products, however, recommend frequent reapplication. No benefits attach to use of DEET more frequently than necessary to achieve its purpose. The Agency did not make a regulatory decision about whether to reregister these combination products at the time of the DEET RED because EPA believed that adequate information was not available.

In February 1997, the EPA completed its Reregistration Eligibility Decision (RED) document for oil of citronella. This decision includes a comprehensive reassessment of the required target data and the use patterns of currently registered products. Oil of citronella is a biochemical pesticide. It is registered as an animal repellent and as an insect repellent/feeding depressant. Oil of citronella is the volatile oil obtained from the steam distillation of freshly cut or partially dried grasses (*Cymbopogon nardus (Rendal)* and *Cymbopogon winterianus (Jowitt).* Two varieties of the citronella oil exist commercially – ''Ceylon type'' (derived from *C. nardus*) and ''Java type'' (derived from *C. winterianus*). (Oil of Citronella RED, 02/97)

Based on pesticide survey usage information for the years 1991 through 1992, annual citronella domestic usage ranged approximately from 33,000 to 48,000 pounds active ingredient for four sites (domestic dwelling; ornamentals; human face, skin, and clothing; and manufacturing). Oil of citronella is an insect repellent with its largest markets, in terms of total pounds active ingredient, allocated to human face, skin, and clothing (56% to 74%); domestic dwelling outdoor (22% to 41%); and ornamentals (1.5% to 2.0%). The balance is for manufacturing use. (Oil of Citronella RED)

The third currently registered insect repellent used in combination with sunscreen is IR3535. In 1997, the Agency classified IR3535 as a biochemical, based on facts that:

i. It is functionally identical to naturally occurring beta alanine;

ii. Both repel insects;

iii. The basic molecular structure is identical;

iv. The end groups are not likely to contribute to toxicity; and

v. It acts to control the target pest via a non-toxic mode of action.

The active ingredient, IR3535 is a liquid synthetic biochemical pesticide which contains 98% 3 [N Butyl N acetyl] aminopropionic acid, ethyl ester as active ingredient and 2.00% inert ingredients. (Biopesticide Registration Eligibility Document)

Two insect repellent active ingredients in registered pesticides are not currently utilized in a combination product. However, for the purposes of completeness, all currently registered insect repellents are discussed within this Notice. The first chemical is *p*-methane-3,8-diol, a biochemical pesticide which is chemically synthesized, although a natural oil comparable to *p*-methane-3,8-diol can be extracted from lemon eucalyptus leaves and twigs. It can be used in three types of consumer pesticide products: A spray, a lotion, and a towellette. *p*-methane-3,8-diol can be used to make products that are used for the purpose of repelling insects such as mosquitoes. (Biopesticide Registration Eligibility Document). The other insect repellent is KBR 3023, containing the active ingredient, picaridin. This chemical is currently formulated for use as a human skin applied insect repellent. Currently EPA-registered picaridin products include 15% pump spray, 10% aerosol spray, 7% cream, 7% pump spray, 5% cream, and 5% pump spray.

2. *Regulatory Status of the Sunscreen Ingredients.* In the **Federal Register** of May 21, 1999 (64 FR 27666), FDA issued a final monograph for over-the-counter (OTC) sunscreen drug products in 21 CFR part 352, establishing conditions under which these products are generally recognized as safe and effective and not misbranded. The monograph includes 16 sunscreen active ingredients in § 352.10, provides for combinations of sunscreen active ingredients in § 353.20, specifies required labeling in §§ 352.50, 352.52 and 352.60, and sets forth required testing procedures in §§ 352.70 through 352.77.

Historically, FDA has used its enforcement discretion to allow the marketing of appropriate insect repellent-sunscreen combination products. These types of products were marketed before the OTC drug review began in 1972, and FDA has not explicitly addressed them at any time in the rulemaking for OTC sunscreen drug products. Because they have always contained a pesticide, the combination insect repellent-sunscreen products have also historically been registered with and regulated by EPA. FDA has not objected to the marketing of the combination products pending the issuance of the final sunscreen monograph so long as the products contained sunscreen ingredients included in the FDA rulemaking and were registered with EPA. FDA is interested in determining whether it should amend that monograph to address these combination products

before the monograph becomes effective. Any combination product containing an active drug ingredient that is not included in the final monograph after the effective date will be considered a new drug and need a new drug approval (NDA) approval to be legally marketed, even if the product is also registered with EPA.

III. Issues Related to Insect Repellent-Sunscreen Drug Products

EPA and FDA have identified three broad issues areas in connection with the regulation of these combination products:

A. Possible Manufacturing Conflicts

Any insect repellent/sunscreen combination product would have to comply with EPA's data requirements in 40 CFR part 158 and with FDA's current good manufacturing practice for finished pharmaceuticals requirements in 21 CFR part 211. The Agencies are not aware of any specific manufacturing requirements that conflict and invite specific comment and information on this subject.

B. Possible Formulation Conflicts

The EPA has solicited information from registrants of combination insect repellent/sunscreen products regarding the possibility of formulation conflicts. The Agency is aware of some limited, conflicting information, which raises the question of whether combining a sunscreen and an insect repellent component in a single product diminishes the efficacy of either the sunscreen or the insect repellent. Specific comments and information are invited on this subject.

C. Possible Labeling Conflicts

Insect repellent/sunscreen products can have labeling requirements for their individual components that could theoretically conflict. The insect repellent component of the product must be labeled in accordance with 40 CFR part 156 and should comply with directions set out in its registration notice or the RED for the appropriate active ingredient. For each registered insect repellent, these requirements are listed in the registration or reregistration documents. The sunscreen component of the product must be labeled in accord with 21 CFR 201.66, 352.50, 352.52, and 352.60. The labeling format and some of the content requirements could vary between the EPA and FDA requirements. The Agency is looking at whether it is possible for products to comply with both sets of requirements and recommendations without confusing or misleading users.

IV. Specific Topics for Comment

The EPA is particularly interested in receiving comments on the following topics:

A. Safety Issues

1. *Application frequency*. The EPA is concerned that the combination products could contain conflicting use instructions on product labels which compromise safe use of these products. For example, the directions for some DEET products require a 6–hour interval between applications and state ''use just enough repellent to cover exposed skin and/or clothing'' and ''avoid over-application of this product''. The directions for sunscreen drug products in § 352.52(d)(1) and (d)(2) state to ''apply (select 'liberally', 'generously', 'smoothly', or 'evenly'), before sun exposure and as needed,'' and ''reapply as needed or after towel drying, swimming, or (select 'sweating' or 'perspiring')''. EPA is soliciting suggestions on how this potential concern can be alleviated.

2. *Application location*. The EPA has directed that insect repellents not be used for certain areas of the body (e.g., over cuts, applied by spray directly to the face, etc.), and apply sparingly around ears. Sunscreen use directions, however, encourage consumers to apply the products, on the face and ears, ''liberally, generously, smoothly, or evenly'' ''before sun exposure and as needed,'' and ''reapply as needed or after towel drying, swimming, or (select 'sweating' or 'perspiring').'' EPA is soliciting comment on how the safety concern of a potential misapplication of the insect repellent can be reconciled with the need to provide complete coverage of exposed skin for the sunscreen component.

3. *Federal Fungicide and Rodentide Act (FIFRA) registration*. Given the aforementioned safety concerns and potential conflicts, the Agency would like to solicit comments on whether these insect repellent-sunscreen combination products should be registered at all.

B. Effectiveness Issues

For some products, there are effectiveness concerns because of the interval of time required between applications of the product. EPA identifies reapplication times on product labels so consumers maintain protection against insect bites, while avoiding over-exposure. This reapplication time relates to the effectiveness of the insect repellent portion of the product, not to the sunscreen protection. The sunscreen reapplication time is under the purview of the FDA. For some of the insect repellent products currently registered, the recommended reapplication time to maintain the effectiveness of the insect repellent could potentially be longer than that recommended to ensure the protectiveness of the sunscreen portion of the product. EPA is soliciting comment on the following questions:

1. Is it possible to formulate these products such that the insect repellent protection time coincides with the sunscreen protection time?

2. Are there effective concentrations of the insect repellent ingredients that could be used to allow for liberal application and frequent reapplication of the insect repellent-sunscreen combination products, as directed by the sunscreen instructions, without causing unnecessary exposure of the consumer to the insect repellent component of the product?

3. Is information available to demonstrate that there are any chemical or physical incompatibilities between insect repellents and sunscreen active ingredients when used separately? If so, how does this vary by the insect repellent component or by the sunscreen component? Please submit and/or summarize any information that you reference.

4. Are there some product performance benefits derived from the purposeful combination of the insect repellent and the sunscreen ingredients (as opposed to the sequential application of these products separately). What information is available which would help frame the advantages or disadvantages of these formulation combinations? How does this vary by insect repellent? Please submit and/or summarize any information that you reference.

C. Manufacturing, Registration and Testing Issues

1. Are manufacturers of the insect repellent/sunscreen combination products aware of any conflicts in the EPA and FDA manufacturing requirements? If yes, please identify and propose a way to resolve the conflict.

2. As it relates to potential future regulatory action taken with regard to these products, how should currently registered products be addressed? Should these products have to meet all of the requirements that result from the current EPA-FDA joint regulatory effort to retain their registrations? If not, what requirements should be retained, revised or eliminated?

D. Labeling Issues

1. There are many differences between the labeling requirements required by FDA's OTC drug labeling requirements and EPA's pesticide labeling requirements. For example, the formats and the order in which information is presented are quite different. FDA allows the use of the word ''warning'' on labels; however it is only allowed as an indicator of toxicity level on pesticide labels. Various required section headings are different. Please comment on how such labeling differences can be reconciled.

2. FDA ingredient statements list the ''inactive or inert'' ingredients more often and in greater detail than do EPA approved labels. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not require the listing of the identities of inert ingredients on the label. Are there ways to provide the insect repellent inert ingredients information in the product's labeling to satisfy the drug requirements of the FFDCA?

3. Is it desirable for users of these products to have a single integrated label, or would an insect repellent (EPA) and a sunscreen (FDA) section in the product's labeling be preferable?

4. Should the insect repellent/sunscreen combination products be required to have a statement on the front panel of the label specifically identifying the product as containing an insect repellent (such as, This Product Contains An Insect Repellent)? Would this be useful to help consumers distinguish between sunscreen products that contain pesticides from the typical sunscreen drug products that contain no pesticides?

List of Subjects

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Pesticides, Pests.

Dated: February 13, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–3008 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[Docket# EPA–RO4–SFUND–2007–0129; FRL–8279–3]

Starmet CMI; Barnwell, Barnwell County, SC; Notice of Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of settlement.

SUMMARY: Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response costs with the Alaron Corporation concerning the Starmet CMI Superfund Site located in Barnwell, Barnwell County, South Carolina.

DATES: The Agency will consider public comments on the settlement until March 26, 2007. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Batchelor. Submit your comments, identified by Docket ID No. EPA–RO4–SFUND–2007–0129 or Site name Starmet CMI Superfund Site by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: Batchelor.Paula@epa.gov*
- *Fax:* 404/562–8842/Attn Paula V. Batchelor

Mail: Ms. Paula V. Batchelor, U.S. EPA Region 4, WMD–SEIMB, 61 Forsyth Street, SW., Atlanta, Georgia 30303. ''In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attn:* Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.''

Instructions: Direct your comments to Docket ID No. EPA–R04–SFUND–2007–0129. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. EPA Region 4 office located at 61 Forsyth Street, SW., Atlanta, Georgia 30303. Regional office is open from 7 a.m. until 6:30 p.m.. Monday through Friday, excluding legal holidays.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: Paula V. Batchelor at 404/562–8887.

Dated: February 7, 2007.

Rosalind H. Brown,

Chief, Superfund Enforcement & Information Management Branch, Superfund Division.

[FR Doc. E7–3014 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0079; FRL–OW–8280–2]

Aquatic Life Ambient Freshwater Quality Criteria—Copper 2007 Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of the 2007 revised recommended aquatic life ambient freshwater quality criteria for copper. The Clean Water Act (CWA) requires

EPA to develop and publish, and from time to time revise, criteria for water accurately reflecting the latest scientific knowledge. These criteria provide EPA's recommendations to states and authorized tribes as they establish their water quality standards as state or tribal law or regulation. An EPA water quality criterion does not substitute for requirements of the CWA or EPA regulations, nor is an EPA criteria recommendation a regulation. It does not impose legally binding requirements on the EPA, states, authorized tribes or the regulated community. State and tribal decision makers have discretion to adopt approaches that differ from EPA's water quality criteria recommendations on a case-by-case basis. Today, the Agency is making a revised recommendation about water quality criteria for copper.

ADDRESSES: Copies of the criteria document entitled, Aquatic Life Ambient Freshwater Quality Criteria—Copper 2007 Revision (EPA–822–R–07–001) may be obtained from EPA's Water Resource Center by phone at (202) 566–1729, or by e-mail to *center.water.resource@epa.gov* or by conventional mail to: U.S. EPA Water Resource Center, 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You can also download the criteria document and the fact sheet from EPA's Web site at *http://www.epa.gov/waterscience/criteria/copper/index.htm.*

FOR FURTHER INFORMATION CONTACT: Dr. Luis Cruz, Health and Ecological Criteria Division (4304T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 566–1095; *cruz.luis@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Interested Entities

Entities potentially interested in today's notice are those that produce, use, or regulate copper. Categories and entities interested in today's notice include:

Category	Examples of interested entities
State/Local/Tribal Government.	States, Tribes and Municipalities.
Industry	Mining, fabricated metal products, electric equipment, leather products.

This table is not exhaustive, but rather provides a guide for readers regarding the entities likely to be interested in this notice. Other types of entities not listed in the table could also be interested.

B. How Can I Get Copies of This Document and Other Related Information?

1. Docket

EPA established an official public docket for the initial draft criteria document and scientific views received under Docket ID No. EPA–HQ–OW–2003–0079. The official public docket will also consist of the 2007 revised criteria document and scientific views received. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. 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, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. To view these documents and materials, please call ahead to schedule an appointment. Every user is entitled to copy 266 pages per day before incurring a charge. The Docket may charge 15 cents a page for each page over the 266-page limit plus an administrative fee of $25.00.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA's Internet listings under the **Federal Register** at: *http://www.epa.gov/fedrgstr/.*

II. Background and Today's Notice of Availability

A. What Are EPA Recommended Ambient Water Quality Criteria?

An EPA recommended ambient water quality criterion is a description of the amount of a pollutant or other measurable substance in water that, when met, will protect aquatic life and/or human health. Water quality criteria are based on the factors specified in section 304(a) of the Clean Water Act, including the kind and extent of effects of the pollutant on human health and aquatic organisms. Section 304(a) of the Clean Water Act (CWA or the Act) requires EPA to develop and publish and, from time to time, revise, recommended ambient water quality criteria to accurately reflect the latest scientific knowledge. An EPA water criterion does not substitute for requirements of the CWA or EPA regulations, nor is an EPA criteria recommendation a regulation. It does not impose legally binding requirements on EPA, states, authorized tribes or the regulated community. State and tribal decision makers have discretion to adopt approaches that differ from EPA's water quality criteria recommendations on a case-by-case basis.

Ambient water quality criteria developed under section 304(a) provide guidance to states and tribes in adopting water quality criteria into their water quality standards under section 303(c) of the CWA. Once adopted by a state or tribe, the water quality standards are then a basis for developing regulatory controls on the discharge or release of pollutants and other alterations of water quality. EPA's section 304(a) criteria also provide a scientific basis for EPA to develop any necessary federal water quality regulations under section 303(c) of the CWA.

B. What Is the Relationship Between the Water Quality Criteria and Your State or Tribal Water Quality Standards?

The revised recommended criteria in today's notice are based on the factors specified in section 304(a) of the Clean Water Act, including the kind and extent of effects of the pollutant on human health and aquatic organisms. EPA's recommended criteria are used by the states and tribes in developing their regulatory criteria under section 303(c) of the CWA. Under the Clean Water Act, regulatory water quality criteria must protect the designated use, independent of the economic and technical feasibility of meeting the criteria. Economic and technical feasibility factors are considered by states and tribes when they adopt designated uses into their water quality standards under section 303(c) of the Act and when states, tribes, and EPA consider variance requests. Moreover, states and tribes may also consider alternative scientifically defensible approaches to adopting criteria into their water quality standards.

Section 303(c)(1) of the CWA requires states and authorized tribes to review and modify, if appropriate, their water quality standards at least once every three years. Water quality standards consist of designated uses, water quality criteria to protect those uses, a policy for antidegradation, and general policies for application and implementation. States and authorized tribes must adopt water quality criteria that protect designated uses. Protective criteria, based on a sound scientific rationale, contain appropriate factors to protect the designated uses. Criteria may be

either narrative or numeric. States and authorized tribes have four options when adopting water quality criteria for parameters for which EPA has published section 304(a) criteria. They may: (1) Establish numerical values based on recommended CWA section 304(a) criteria; (2) Establish numerical values based on CWA section 304(a) criteria modified to reflect site-specific conditions; (3) Establish numerical values based on other scientifically defensible methods; or (4) Establish narrative criteria or criteria based upon biomonitoring methods where numerical criteria cannot be determined or to supplement numerical criteria. See 40 CFR 131.11(b).

Pursuant to 40 CFR 131.21, water quality criteria that states and authorized tribes adopted and submitted to EPA before May 30, 2000, are in effect for CWA purposes. The criteria remain in effect unless and until EPA promulgates federal regulations that supersede them or EPA approves a revised state criteria. See, e.g., the National Toxics Rule, 40 CFR 131.36; Water Quality Standards for Idaho, 40 CFR 131.33. New or revised water quality criteria that states and authorized tribes adopted into law or regulation and submit to EPA on or after May 30, 2000, are in effect for CWA purposes only after EPA approves them.

C. What Is the History of Today's Revised Criteria?

EPA notified the public of its intentions to revise the recommended aquatic life criteria for copper in the **Federal Register** on October 29, 1999 (63 FR 58406). On December 31, 2003 EPA published a Federal Register Notice announcing the availability of the document Notice of Availability of Draft Aquatic Life Criteria Document for Copper and Request for Scientific Views (68 FR 75552). The initial draft criteria document contained recommendations for both freshwater and saltwater criteria derivations; however, EPA has since determined that the biotic ligand model requires further development before it is suitable for use to evaluate saltwater data. On March 9, 2004 EPA published a Federal Register Notice (69 FR 11012) announcing the reopening of the period to submit scientific views in response to requests from the public. Comments received were supportive of using the BLM for deriving freshwater criteria for copper. Issues related to criteria derivation process were answered, as well as corrections in matters of scientific relevance related to the applicability of the BLM.

D. What Is Copper?

Copper is an abundant trace element found in the earth's crust and is a naturally occurring element that is generally present in surface waters. Copper is a micronutrient at low concentrations and recognized as essential to virtually all plants and animals. Historically, elevated levels of copper have been linked to adverse effects on aquatic organisms and concerns have prompted its inclusion as a priority pollutant. Currently, there are 629 rivers and streams listed as impaired for copper and 5 for contaminated sediments due to copper.

E. What Is New About the Revised Criteria?

The aquatic life criteria document titled, ''Aquatic Life Ambient Freshwater Quality Criteria—Copper 2007 Revision'' (EPA–822–R–07–001), contains revised recommendations for freshwater aquatic life criteria for copper. These revised criteria recommendations are based in part on new data that have become available since EPA's last comprehensive criteria updates for copper, ''Ambient Water Quality Criteria for Copper—1984'' (EPA–440/5–84–031). EPA derived the freshwater criteria recommendations presented in this draft document based on the principles set forth in EPA's 1985 Guidelines for Deriving Numerical National Aquatic Life Criteria for Protection of Aquatic Organisms and Their Uses. In addition to incorporating new data, the freshwater criterion maximum concentration (CMC or ''acute criterion'') also relies on a new scientific model, the biotic ligand model (BLM), in the criteria derivation procedures. The freshwater criterion continuous concentration (CCC or ''chronic criterion'') is based on a BLM derived acute value divided by a final acute-chronic ratio. Where used, the application of the BLM will replace the need for site-specific modifications, such as Water Effect Ratio, to account for site-specific chemistry influences on metal toxicity.

F. How Do BLM-Derived Criteria Differ From Hardness-Dependent Criteria?

The biotic ligand model is a metal bioavailability model based on recent information about the chemical behavior and physiological effects of metals in aquatic environments. Earlier freshwater aquatic life criteria for copper published by the Agency were based on empirical relationships of toxicity to water hardness. That is, a relationship was established linking the criteria concentrations with water hardness. These hardness-dependent criteria, however, represented combined effects of different water quality variables (such as pH and alkalinity) correlated with hardness. Unlike the empirically derived hardness-dependent criteria, the BLM explicitly accounts for individual water quality variables and addresses variables that EPA had not previously factored into the hardness relationship. Where the previous freshwater aquatic life criteria were hardness-dependent, these revised criteria are dependent on a number of water quality parameters (e.g., calcium, magnesium, dissolved organic carbon) described in the document. BLM-based criteria can be more stringent than the current hardness-based copper criteria and in certain cases the current hardness-based copper criteria may be overly stringent for particular water bodies.

More information on the development and application of the biotic ligand model is available in the criteria document as well as in The Biotic Ligand Model: Technical Support Document for Its Application to the Evaluation of Water Quality Criteria for Copper (EPA 822–R–03–027) and Integrated Approach to Assessing the Bioavailability and Toxicity of Metals in Surface Waters and Sediments (EPA–822–E–99–001).

G. What Are the New Revised Criteria for Copper?

The available toxicity data, when evaluated using the procedures described in the ''Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses'' indicate that freshwater aquatic life should be protected if the 24-hour average and four-day average concentrations do not respectively exceed the acute and chronic criteria concentrations calculated by the Biotic Ligand Model.

A return interval of 3 years between exceedances of the criterion continues to be EPA's general recommendation. However, the resilience of ecosystems and their ability to recover differ greatly. Therefore, scientific derivation of alternative frequencies for exceeding criteria may be appropriate.

Dated: February 15, 2007.

Ephraim King,

Director, Office of Science and Technology.

[FR Doc. E7–3007 Filed 2–21–07; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Submission for OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of submission for OMB review.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) hereby gives notice that it has submitted to the Office of Management and Budget (OMB) a request for an extension of the existing collection requirements under 29 CFR 1602, Recordkeeping and Reporting Requirements under Title VII and the ADA. The Commission has requested an extension of an existing collection as listed below.

DATES: Written comments on this final notice must be submitted on or before March 26, 2007.

ADDRESSES: The Request for Clearance (SF 83–I), supporting statement, and other documents submitted to OMB for review may be obtained from: Mona Papillon, General Attorney, 1801 L Street, NW., Washington, DC 20507. Comments on this final notice must be submitted to Brenda Aquilar, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *baguilar@omb.eop.gov.* Comments should also be sent to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers.)

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel or Mona Papillon, General Attorney, at (202) 663–4660 or TDD (202) 663–4074. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: A notice that EEOC would be submitting this request was published in the Federal Register on November 20, 2006, allowing for a 60-day public comment period. No comments were received.

Overview of This Information Collection

Type of Review: Extension—No change.

Collection Title: Recordkeeping and Reporting under Title VII and the ADA.

Form No.: None.

Frequency of Report: Other.

Type of Respondent: Employers with 15 or more employees.

Description of Affected Public: Employers with 15 or more employees are subject to Title VII and the ADA.

Responses: 627,000.

Reporting Hours: One.

Federal Cost: None.

Abstract: Section 709 of Title VII, 42 U.S.C. 2000e and section 107(a) of the ADA, 42 U.S.C. 12117 require the Commission to establish regulations pursuant to which employers subject to those Acts shall make and preserve certain records to assist the EEOC in assuring compliance with the Acts' nondiscrimination requirements in employment. This is a recordkeeping requirement. Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of section 706(b) and 709(e) of Title VII, which are also incorporated into the ADA at section 107(a).

Burden Statement: The estimated number of respondents is approximately 627,000 employers. The recordkeeping obligation does not require reports or the creation of new documents; it merely requires retention of documents that the employer has made or kept. Thus, the burden imposed by these regulations is minimal. The burden is estimated to be less than one hour per employer.

Dated: February 6, 2007.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E7–2908 Filed 2–21–07; 8:45 am]

BILLING CODE 6570–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Advisory Committee was established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Wednesday, March 7, 2007 from 9 a.m. to 12 p.m. The meeting will be held at Ex-Im Bank in the Main Conference Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: Agenda items include a short summary of the Bank's recent reauthorization, plus presentations from the Small Business Team and the Services Team of the 2007 Advisory Committee members.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the guard's desk as part of the clearance process into the building, and you may contact Teri Stumpf to be placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to March 1, 2007, Teri Stumpf, Room 1209, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FURTHER INFORMATION: For further information, contact Teri Stumpf, Room 1209, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3502.

Kamil P. Cook,

Deputy General Counsel.

[FR Doc. 07–792 Filed 2–21–07; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 14, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this

opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 23, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167 or via internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0741.

Title: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96–98, Second Report and Order and Memorandum Opinion and Order; Second Order on Reconsideration; CC Docket No. 99–273, First Report and Order.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,000 respondents; 2,000 responses.

Estimated Time per Response: 114 hours (average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 228,030 hours.

Total Annual Cost: $60,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Respondents are not required to submit or disclose confidential information.

Needs and Uses: The Commission will submit this information collection to the OMB as an extension after this 60 day comment period to obtain the full three-year clearance from them. The number of respondents, total burden hours and annual costs remain unchanged.

In the First Report and Order issued under CC Docket No. 99–273 in 2001, the Commission adopted several of its tentative proposals. The Commission concluded that the local exchange carriers (LECs) must provide competing directory assistance (DA) providers that qualify under section 251 with nondiscriminatory access to the LEC's local directory assistance databases, and must do so at nondiscriminatory and reasonable rates. The Commission determined that LECs are not required to grant competing DA providers nondiscriminatory access to non-local director assistance databases. All of the requirements are implemented under sections 251 and/or 222 of the Telecommunications Act of 1996.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–2994 Filed 2–21–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

February 13, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments April 23, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167, or via the Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC), Room 1–B441, 445 12th Street, SW., Washington, DC 20554. To submit your comments by email send them to: *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0286.

Title: Section 80.302, Notice of Discontinuance, Reduction, or Impairment of Service Involving a Distress Watch.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 160 respondents; 160 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 160 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. There is no change in the number of respondents or burden hours.

Section 80.302 is necessary when changes occur in the operation of a public coast station which include discontinuance, reduction or suspension of a watch required to be maintained on 2182 kHz or 156.800 MHz, notification must be made by the licensee to the nearest district office of the U.S. Coast Guard as soon as practicable. This notification must include the estimated or known resumption time of the watch.

The information is used by the U.S. Coast Guard district office nearest to the coast station. Once the Coast Guard is aware that such a situation exists, it is able to inform the maritime community that radio coverage has or will be affected and/or seek to provide coverage of the safety watch via alternate means.

OMB Control No.: 3060–0308.

Title: Section 90.505, Developmental Operation, Showing Required.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and state, local or tribal government.

Number of Respondents: 100 respondents; 100 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 200 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three-year clearance. There is no change in the number of respondents or burden hours.

Section 90.505 requires applicants proposing developmental operations to submit supplemental information showing why the authorization is necessary and what its use will be. This reporting requirement will be used by the Commission staff in evaluating the applicant's need for such frequencies and the interference potential to other stations operating on the proposed frequencies.

OMB Control No.: 3060–0807.

Title: Section 51.803, Procedures for Commission Notification of a State Commission's Failure to Act; and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 60 respondents; 60 responses.

Estimated Time per Response: 20–40 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 1,600 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three-year clearance. The Commission has adjusted the burden hours for this information collection due to an increase in the number of respondents.

Any interested party seeking preemption of a state commission's jurisdiction based on the state commission's failure to act shall notify the Commission as follows: (1) File with the Secretary of the Commission a detailed petition, supported by an affidavit, that states with specificity the basis for any claim that it has failed to act; and (2) serve the state commission and other parties to the proceeding on the same day that the party serves the petition on the Commission. Within 15 days of the filing of the petition, the state commission and parties to the proceeding may file a response to the petition. All of the requirements are used to ensure that petitioners have complied with their obligations under the Communications Act of 1934, as amended.

OMB Control No.: 3060–0894.

Title: Certification Letter Accounting for Receipt of Federal Support—CC Docket Nos. 96–45, and 96–262.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State, local or tribal government.

Number of Respondents: 52 respondents; 52 responses.

Estimated Time per Response: 3–5 hours.

Frequency of Response: On occasion and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 162 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three-year clearance. There is no change in respondents or burden hours. Each state is required to provide information to the Commission regarding the comparability of local rates in rural areas served by non-rural carriers within the state to urban rates nationwide. The certification process requirements address rate comparability. Pursuant to the certification process, each state is required to inform whether its rates in rural areas served by non-rural carriers are reasonably comparable to urban rates nationwide and explain the basis for its conclusion as well as its proposed remedies, if necessary.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–2995 Filed 2–21–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

February 15, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the

following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 26, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 and Allison E. Zaleski, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via fax at (202) 395–5167 or at *Allison_E._Zaleski@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918. If you would like to obtain a copy of the information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0692.

Title: Home Wiring Provisions.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit entities.

Number of Respondents: 22,000.

Estimated Time per Response: 5 minutes—2 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Annual reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 36,114 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This information collection accounts for the information collection requirement stated in *47 CFR 76.613*, where MVPDs causing harmful signal interference may be required by the Commission's engineer in charge (EIC) to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

47 CFR 76.802, Disposition of Cable Home Wiring, gives individual video service subscribers in single unit dwellings and MDUs the opportunity to purchase their cable home wiring at replacement cost upon voluntary termination of service. In calculating hour burdens for notifying individual subscribers of their purchase rights, we make the following assumptions:

(1) There are approximately 20,000 MVPDs serving approximately 72,000,000 subscribers in the United States.

(2) The average rate of churn (subscriber termination) for all MVPDs is estimated to be 1% per month, or 12% per year.

(3) MVPDs own the home wiring in 50% of the occurrences of voluntary subscriber termination.

(4) Subscribers or property owners already have gained ownership of the wiring in the other 50% of occurrences (e.g., where the MVPD has charged the subscriber for the wiring upon installation, has treated the wiring as belonging to the subscriber for tax purposes, or where state and/or local law treats cable home wiring as a fixture).

(5) Where MVPDs own the wiring, we estimate that they intend to actually remove the wiring 5% of the time, thus initiating the disclosure requirement.

We believe in most cases that MVPDs will choose to abandon the home wiring because the cost and effort required to remove the wiring generally outweigh its value. The burden to disclose the information at the time of termination will vary depending on the manner of disclosure, e.g., by telephone, customer visit or registered mail. Virtually all voluntary service terminations are done by telephone. In addition, 47 CFR 76.802 states that if a subscriber in an MDU declines to purchase the wiring, the MDU owner or alternative provider (where permitted by the MDU owner) may purchase the home wiring where reasonable advance notice has been provided to the incumbent.

(1) According to the 2000 U.S. Census, the nation's population was approximately 281,000,000.

(2) The American Housing Survey for the United States, 2001, Table 2–25, and the 2000 Census stated that the total number of living units of all types in the United States was approximately 106,000,000, or an average of 2.65 people per unit.

(3) The American Housing Survey also estimated that 24,600,000 occupied housing units were classified as ''multi-units,'' that is, they are in MDUs with two or more units per building.

(4) The American Housing Survey data also found that there were approximately 7,600,000 buildings classified as MDUs in the United States.

(5) Approximately 66,000,000 people resided in these 24,600,000 occupied housing units in these MDUs in 2000.

(6) We estimate that 2,000 MDU owners will provide advance notice to the incumbent MVPD that the MDU owner wishes to use the home run wiring to receive service from an alternative video service provider.

47 CFR 76.802 also states that, to inform subscribers of per-foot replacement costs, MVPDs may develop replacement cost schedules based on readily available information; if the MVPD chooses to develop such schedules, it must place them in a public file available for public inspection during regular business hours. We estimate that 50% of MVPDs will develop such cost schedules to place in their public files. Virtually all individual subscribers terminate service via telephone, and few subscribers are anticipated to review cost schedules on public file.

47 CFR 76.804 Disposition of Home Run Wiring. We estimate the burden for notification and election requirements for building-by-building and unit-by-unit disposition of home run wiring as described below. Note that these requirements apply only when an MVPD owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the entity that owns or controls the common areas of the MDU or have a legally

enforceable right to maintain any particular home run wire dedicated to a particular unit on the premises against the MDU owner's wishes.

We use the term ''MDU owner'' to include whatever entity owns or controls the common areas of an apartment building, condominium or cooperative. For building-by-building disposition of home run wiring, the MDU owner gives the incumbent service provider a minimum of 90 days' written notice that its access to the entire building will be terminated. The incumbent then has 30 days to elect what it will do with the home run wiring. Where parties negotiate a price for the wiring and are unable to agree on a price, the incumbent service provider must elect among abandonment, removal of the wiring, or arbitration for a price determination. Also, regarding cable home wiring, when the MDU owner notifies the incumbent service provider that its access to the building will be terminated, the incumbent provider must, within 30 days of the initial notice and in accordance with our home wiring rules:

(1) Offer to sell to the MDU owner any home wiring within the individual dwelling units which the incumbent provider owns and intends to remove, and

(2) Provide the MDU owner with the total per-foot replacement cost of such home wiring.

The MDU owner must then notify the incumbent provider as to whether the MDU owner or an alternative provider intends to purchase the home wiring not later than 30 days before the incumbent's access to the building will be terminated. For unit-by-unit disposition of home run wiring, an MDU owner must provide at least 60 days' written notice to the incumbent MVPD that it intends to permit multiple MVPDs to compete for the right to use the individual home run wires dedicated to each unit. The incumbent service provider then has 30 days to provide the MDU owner with a written election as to whether, for all of the incumbent's home run wires dedicated to individual subscribers who may later choose the alternative provider's service, it will remove the wiring, abandon the wiring, or sell the wiring to the MDU owner.

In other words, the incumbent service provider will be required to make a single election for how it will handle the disposition of individual home run wires whenever a subscriber wishes to switch service providers; that election will then be implemented each time an individual subscriber switches service providers.

Where parties negotiate a price for the wiring and are unable to agree on a price, the incumbent service provider must elect among abandonment, removal of the wiring, or arbitration for a price determination. The MDU owner also must provide reasonable advance notice to the incumbent provider that it will purchase, or that it will allow an alternative provider to purchase, the cable home wiring when a terminating individual subscriber declines. If the alternative provider is permitted to purchase the wiring, it will be required to make a similar election during the initial 30-day notice period for each subscriber who switches back from the alternative provider to the incumbent MVPD.

While the American Housing Survey estimates that there were some 7,600,000 MDUs with 24,600,000 resident occupants in the United States in 2000, we estimate that there will be only 12,500 notices and 12,500 elections being made on an annual basis. In many buildings, the MDU owner will be unable to initiate the notice and election processes because the incumbent MVPD service provider continues to have a legally enforceable right to remain on the premises. In other buildings, the MDU owner may simply have no interest in acquiring a new MVPD service provider.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3005 Filed 2–21–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC Announces Details for Public Hearing on Media Ownership in Harrisburg, PA

February 16, 2007.

Washington, DC—The Federal Communications Commission today announced further details of its previously announced Harrisburg field hearing regarding media ownership (*see* press release dated February 8, 2007.)

The hearing date, time, and location are as follows:

DATE: Friday, February 23, 2007.

TIME: 9 a.m.–2:30 p.m.

PRELIMINARY SCHEDULE (SUBJECT TO CHANGE): 9 a.m.–9:30 a.m.: Welcome/Opening Remarks
9:30 a.m.–11 a.m.: Panel Discussion
11 a.m.–12:30 p.m.: Public Comment
12:30 p.m.–1 p.m.: Break
1 p.m.–2:30 p.m.: Public Comment

LOCATION: Whitaker Center for Science and the Arts, Sunoco Performance Theater, 222 Market Street, Harrisburg, Pennsylvania 17101.

Link to Whitaker Center: *http://www.whitakercenter.org*.

The purpose of the hearing is to fully involve the public in the process of the 2006 Quadrennial Broadcast Media Ownership Review that the Commission is currently conducting. The hearing is open to the public, and seating will be available on a first-come, first-served basis. This hearing is the third in a series of media ownership hearings the Commission intends to hold across the country.

There will be one panel of presenters followed by public comment. The hearing format will enable members of the public to participate via ''open microphone.''

Open captioning and sign language interpreters will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Make your request as early as possible. Last minute requests will be accepted, but may not be possible to fill. Send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau: For reasonable accommodations: 202–418–0530 (voice), 202–418–0432 (TTY).

Further details including names of the panelists will be released prior to the hearing.

For additional information about the hearing, please visit the FCC's Web site at *http://www.fcc.gov/ownership*. Press inquiries should be directed to Clyde Ensslin, at 202–418–0506, or David Fiske, at 202–418–0513.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–819 Filed 2–20–07; 11:23 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**.

Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011290–038.

Title: International Vessel Operators Hazardous Material Association Agreement.

Parties: Aliança Navegacao e Logistica Ltda.; APL Co. PTE Ltd.; A.P. Moller-Maersk A/S; Atlantic Container Line AB; Bermuda Container Line; China Shipping Container Lines Co., Ltd.; CMA CGM, S.A.; COSCO Container Lines, Inc.; Crowley Maritime Corporation; Evergreen Marine Corp. (Taiwan) Ltd.; Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Horizon Lines, LLC; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Kawasaki Kisen Kaisha Ltd.; Marine Transport Management, Inc.; Maruba SCA; Matson Navigation Company; Mitsui O.S.K. Lines, Ltd.; National Shipping Co. of Saudi Arabia; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; Safmarine Container Lines; Seaboard Marine Ltd.; Senator Lines GmbH; Tropical Shipping & Construction Co., Ltd.; United Arab Shipping Co. S.A.G.; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment reflects a change in the COSCO entity that is party to the Agreement and a future change in the Evergreen party to the Agreement. It also corrects a typographical error in the name of Hamburg Süd.

Agreement No.: 011405–021.

Title: Ocean Carrier Working Group Agreement.

Parties: Latin America Agreement; Israel Trade Conference; Trans-Atlantic Conference Agreement; Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; United States Australasia Discussion Agreement; Westbound Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; A.P. Moller-Maersk A/S; Evergreen Marine Corporation (Taiwan) Ltd.; King Ocean Service de Venezuela, S.A.; Star Shipping A/S; Tropical Shipping & Construction Company, Limited; Wallenius Wilhelmsen Logistics AS; Zim Integrated Shipping Services, Ltd.; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment updates the membership of various agreement parties and reflects a future change in the name of one of the individual carrier parties.

By Order of the Federal Maritime Commission.

Dated: February 16, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–3009 Filed 2–21–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 8, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. William R. Blanton, Alpharetta, Georgia; to acquire voting shares of NBOG Bancorporation, Inc., and thereby indirectly acquire voting shares of National Bank of Gainesville, both of Gainesville, Georgia.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Pella Fingersh Hillcrest Stock Trust and Trust Number 2 for Julie Fingersh, Pella Fingersh, Naples, Florida, trustee; Julie Fingersh Hillcrest Stock Trust, Julie Fingersh, San Rafael, California, trustee; Paul Fingersh Hillcrest Stock Trust, Paul Fingersh, Kansas City, Missouri, trustee; and Jack N. Fingersh Family Trust and Indenture of Trust of Jack Fingersh, dated 8–21–92, Jack Fingersh, Naples, Florida, trustee; and JPJ Investments, and FT Partners, LP, both in Kansas City, Missouri, and controlled by Jack Fingersh; to retain control of Hillcrest Bancshares, Inc., and thereby indirectly retain control of Hillcrest Bank, both in Overland Park, Kansas.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Harry Lynn Williams, Plano, Texas; to acquire additional voting shares of Snook Bancshares, Inc., Snook, Texas, and indirectly acquire additional voting shares of First Bank of Snook, Snook, Texas.

Board of Governors of the Federal Reserve System, February 16, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–2970 Filed 2–21–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E7–2770) published on page 7656 of the issue for Friday, February 16, 2007.

Under the Federal Reserve Bank of Kansas City heading, the entry for Bishop Limited Partnership, and its general partner, Cheryl R. Bishop, Burlington, Washington, is revised to read as follows:

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. Bishop Limited Partnership, and its general partner, Cheryl R. Bishop; to acquire additional voting shares of Skagit State Bancorp, Inc., and thereby indirectly acquire voting shares of Skagit State Bank, all of Burlington, Washington.

Comments on this application must be received by March 6, 2007.

Board of Governors of the Federal Reserve System, February 16, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–2990 Filed 2–21–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 16, 2007.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. Fairfield Financial Holding Corp, Fairfield, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Fairfield, Fairfield, Washington.

Board of Governors of the Federal Reserve System, February 15, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–2896 Filed 2–21–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 16, 2007.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. Fairfield Financial Holdings Corp, Fairfield, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Fairfield, Fairfield, Washington.

Board of Governors of the Federal Reserve System, February 15, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–2928 Filed 2–21–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 19, 2007.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Montana Business Capital Corporation (to be known as Bancorp of Montana Holding Company), Missoula, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Montana, Missoula, Montana, a *de novo* bank.

In connection with this application, Applicant also has applied to engage in commercial and residential loan origination activities, pursuant to section 225.28(b)(1) of Regulation Y.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Farmers and Drovers Financial Corp., Council Grove, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Drovers Bank, Council Grove, Kansas.

Board of Governors of the Federal Reserve System, February 16, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–2969 Filed 2–21–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 8, 2007.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. NHB Holdings, Inc., and Proficio Mortgage Ventures LLC, both of Jacksonville, Florida; to engage *de novo* through a joint venture with American International Relocation Solutions, in conducting mortgage banking activities through Iris Mortgage Solutions, Pittsburgh, Pennsylvania, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 16, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–2971 Filed 2–21–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records.

SUMMARY: The Privacy Act of 1974 and section 1106 of the Social Security Act (the Act) explain when and how CMS may release the personal data of people with Medicare. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Public Law 108–173) added requirements for releasing and using personal data. The primary purpose of this system is to collect, maintain, and process information on all Medicare covered, and as many non-covered drug events as possible, for people with Medicare who have a Medicare Part D plan. The system will help CMS determine appropriate payment of covered drugs. It will also provide for processing, storing, and maintaining drug transaction data in a large-scale database, while putting data into data marts to support payment analysis. CMS would allow the release of information in this system to: (1) Support regulatory, analysis, oversight, reimbursement, and policy functions performed within the agency or by a contractor, consultant, or a CMS grantee; (2) help another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) help Medicare Part D plans; (4) support an individual or organization for a research, an evaluation, or an epidemiological or other project related to protecting the public's health, the prevention of disease or disability, the restoration or maintenance of health, or for payment related purposes; (5) help Quality Improvement Organizations; (6) support lawsuits involving the agency; and (7) combat fraud, waste, and abuse in certain health benefits programs.

To meet these additional requirements, CMS proposes to modify the existing system of records (SOR) titled ''Medicare Drug Data Processing System (DDPS),'' System No. 09–70–0553, established at 70 **Federal Register** (FR) 58436 (October 6, 2005). Under this modification we are clarifying the statutory authorities for which these data are collected and disclosed. The original SOR notice cited the statutory section governing CMS's payment of Part D plan sponsors (Social Security Act (the Act) § 1860D–15) that limits the uses of the data collected to plan payment and oversight of plan payment. However, the broad authority of § 1860D–12(b)(3)(D) authorizes CMS to collect, use and disclose these same claims data for broader purposes related to CMS's responsibilities for program administration and research. Furthermore the authority under § 1106 of the Act allows the Secretary to release data pursuant to a regulation, which in this case would be 42 CFR 423.322 and 423.505. CMS has published a Notice of Proposed Rulemaking (NPRM) in order to clarify our statutory authority and explain how we propose to implement the broad authority of § 1860D–12(b)(3)(D). This SOR is being revised to reflect our intended use of this broader statutory authority.

CMS proposes to make the following modifications to the DDPS system:

- Revise routine use number 1 to include CMS grantees that perform a task for the agency.
- Add a new routine use number 2 to allow the release of information to other Federal and state agencies for accurate payment of Medicare benefits; to administer a Federal health benefits program, or to fulfill a requirement or allowance of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and help Federal/state Medicaid programs that may need information from this system.
- Broaden the scope of routine use number 4 to allow the release of data to an individual or organization for a research, evaluation, or epidemiological or other project related to protecting the public's health, the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.
- Delete routine use number 5 which authorizes disclosure to support constituent requests made to a congressional representative.
- Broaden the scope of routine use number 7 and 8, to include combating ''waste,'' fraud, and abuse that results in unnecessary cost to all Federally-funded health benefit programs.
- Revise language regarding routine uses disclosures to explain the purpose of the routine use and make clear CMS's intention to release personal information contained in this system.
- Reorder and prioritize the routine uses.
- Update any sections of the system affected by the reorganization or revision of routine uses because of MMA provisions.

• Update language in the administrative sections to be consistent with language used in other CMS SORs.

Although the Privacy Act allows CMS to only ask for comments on the modified routine uses, CMS is asking for comments on all proposed changes discussed in this notice. See the **EFFECTIVE DATES** section below for the comment period.

EFFECTIVE DATES: The modified system will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to the Office of Management and Budget (OMB) and Congress on 02/13/2007, whichever is later, unless CMS receives comments that require changes to this notice.

ADDRESSES: The public should send 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: Amanda Ryan, Health Insurance Specialist, Division of Payment Systems, Medicare Plan Payment Group, Centers for Beneficiary Choices, CMS, Room C1–26–14, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is 410–786–0419 or contact *amanda.ryan@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: In December 2003, Congress added Part D under Title XVIII when it passed the Medicare Prescription Drug, Improvement, and Modernization Act. The Act allows Medicare to pay plans to provide Part D prescription drug coverage as described in Title 42, Code of Federal Regulations (CFR) § 423.401. The Act allows Medicare to pay plans in one of four ways: 1. direct subsidies; 2. premium and cost-sharing subsidies for qualifying low-income individuals (low-income subsidy); 3. Federal reinsurance subsidies; and 4. risk-sharing. Throughout this notice, the term ''plans'' means all entities that provide Part D prescription drug coverage and submit claims data to CMS for payment calculations.

As a condition of payment, all Part D plans must submit data and information necessary for CMS to carry out payment provisions (§ 1860D–15(c)(1)(C) and (d)(2) of the Act, and 42 CFR 423.322). In addition, these data may be disclosed to other entities, pursuant to § 1860D–12(b)(3)(D) and 42 CFR 423.505 (b)(8) and (f)(3) and (5) for the purposes described in the routine uses described in this SOR notice. Furthermore, this data may be disclosed pursuant to § 1106 of the Act.

This notice explains how CMS would collect data elements on 100% of the Part D prescription drug ''claims'' or events according to the statute. The data, including dollar fields, would be used for payment purposes, as well as other purposes allowed by § 1860–D. However, some of the other data elements such as pharmacy and prescriber identifiers would be used to validate claims and meet other legislative requirements such as quality monitoring, program integrity, and oversight.

I. Description of the Modified System of Records

A. Statutory and Regulatory Basis for System

This system is mandated under provisions of the Medicare Prescription Drug, Improvement, and Modernization Act, amending the Social Security Act by adding Part D under Title XVIII (§§ 1860D–15(c)(1)(C) and (d)(2), as described in Title 42, Code of Federal Regulations (CFR) §§ 423.401 and 1860D–12(b)(3)(D) of the Act, as described in 42 CFR §§ 423.505(b)(8) and (f)(3) and (5)).

B. Data in the System

The system contains summary prescription drug claim information on all covered and non-covered drug events for people with Medicare. The data in this system includes prescription drug claim data, health insurance claim number, card holder identification number, date of service, gender, and date of birth (if provided). It also contains provider characteristics, prescriber identification number, assigned provider number (facility, referring/servicing physician), national drug code, total charges, Medicare payment amount, and beneficiary's liability amount.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

Below are CMS' policies and procedures for giving out information maintained in the system. CMS would only release the minimum personal data necessary to achieve the purpose of the DDPS.

1. The information or use of the information is consistent with the reason that the data is being collected.

2. The individually identifiable information is necessary to complete the project (taking into account the risk on the privacy of the individual).

3. The organization receiving the information establishes administrative, technical, and physical protections to prevent unauthorized use of the information; returns or destroys all individually identifiable information when the contract ends; and agrees not to use or give out the information for any purpose other than the reason provided for needing the information.

4. The data are valid and reliable.

The Privacy Act allows CMS to give out identifiable and not-identifiable information for routine uses without an individual's consent. The data described in this notice is listed under Section I. B. above.

III. Routine Uses of Data

A. In addition to those entities specified in the Privacy Act of 1974, CMS may release information from the DDPS without individual consent for some routine uses. Below are the modified routine uses for releasing information without individual consent that CMS would add or modify in the DDPS.

1. To support Agency contractors, consultants, or CMS grantees who are helping CMS with the DDPS and who have a need to access the records in order to provide assistance. Recipients shall be required to comply with the requirements of the Privacy Act, 5 U.S.C. 552a.

CMS must be able to give a contractor, consultant, or CMS grantee necessary information in order to complete their contractual responsibilities. In these situations, protections are provided in the contract prohibiting the contractor, consultant, or grantee from using or releasing the information for any purpose other than that described in the contract. The contract also requires the contractor, consultant, or grantee to return or destroy all information when the contract ends.

2. To help another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. contribute to the accuracy of CMS' payment of Medicare benefits,

b. administer a Federal health benefits program or fulfill a Federal statute or regulatory requirement or allowance that implements a health benefits program funded in whole or in part with Federal funds, or

c. access data required for Federal/state Medicaid programs.

Other Federal or state agencies in their administration of a Federal health program may require DDPS information in order to support evaluations and

monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

In addition, disclosure under this routine use shall be used by state agencies pursuant to agreements with the HHS for determining Medicare or Medicaid eligibility, for quality control studies, for determining eligibility of recipients of assistance under titles IV, XVIII, and XIX of the Act, and for the administration of the Medicare and Medicaid programs. Data will be released to the state only on those individuals who are or were patients under the services of a program within the state or who are residents of that state.

3. To support plans and other entities in protecting their members (and former members for the periods enrolled in a given plan) against unauthorized medical expenses, including unauthorized prescription drug expenses, and providing information about events that affect their members' rights to any benefit or payment. This includes having information to coordinate benefits with Medicare and the Medicare Secondary Payer provision at 42 U.S.C. 1395y(b).

Other insurers may need data in order to support evaluations and monitoring of Medicare claims information, including proper reimbursement for services. In order to receive the information, plans and other entities must:

a. certify that the individual is or was a plan member or is insured and/or employed by, or contracted with another entity for whom they serve as a Third Party Administrator;

b. use the information only to process the individual's insurance claims; and

c. safeguard the confidentiality of the data to prevent unauthorized access.

4. To assist an individual or organization with research, an evaluation, or an epidemiological or other project related to protecting the public's health, the prevention of disease or disability, restoration or maintenance of health, or for payment related purposes. CMS must:

a. determine if the use or release of data violate legal limitations under which the record was provided, collected, or obtained;

b. determine that the purpose for the release of information:

(1) cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) is of sufficient importance to warrant the effect or risk on the privacy of the individual, and

(3) meets the objectives of the project;

c. requires the recipient of the information to:

(1) establish reasonable administrative, technical, and physical protections to prevent unauthorized use or release of information,

(2) return or destroy the information unless there is an acceptable research reason for keeping the information, and

(3) no longer use or release information except:

(a) in emergency circumstances affecting the health or safety of any individual,

(b) for use in another research project, under these same conditions and with written CMS approval,

(c) for an audit related to the research, or

(d) when required by Federal law.

d. get signed, written statements from the entity receiving the information that they understand and will follow all provisions in this notice.

e. complete and submit a Data Use Agreement (CMS Form 0235) in accordance with current CMS policies.

DDPS data will provide for research, evaluation, and epidemiological projects, 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 policy that governs the care.

5. To support Quality Improvement Organizations (QIO) in the claims review process, or with studies or other review activities performed in accordance with Part B of Title XI of the Act. QIOs can also use the data for outreach activities to establish and maintain entitlement to Medicare benefits or health insurance plans.

QIOs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. QIOs will assist the state agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

6. To the Department of Justice (DOJ), court, or adjudicatory body when there is a lawsuit in which the Agency, any employee of the Agency in his or her official capacity or individual capacity (if the DOJ agrees to represent the employee), or the United States Government is a party or CMS' policies or operations could be affected by the outcome. The information must be both relevant and necessary to the lawsuit, and the use of the records is for a purpose that is compatible with the purpose for which CMS collected the records.

Whenever CMS is involved in litigation, or 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.

7. To help a CMS contractor that assists in the administration of a CMS health benefits program or a grantee of a CMS-administered grant program if the information is necessary, in any capacity, to combat fraud, waste, or abuse in such program. CMS will only provide this information if CMS can enter into a contract or grant for this purpose.

CMS must be able to give a contractor or CMS grantee necessary information in order to complete their contractual responsibilities. In these situations, protections are provided in the contract prohibiting the contractor or grantee from using or releasing the information for any purpose other than that described in the contract. It also requires the contractor or grantee to return or destroy all information when the contract ends.

8. To help another Federal agency or any United States government jurisdiction (including any state or local governmental agency) if the information is necessary, in any capacity, to combat fraud, waste, or abuse in a health benefits program that is funded in whole or in part by Federal funds.

Other agencies may require DDPS information for the purpose of combating fraud, waste, or abuse in such Federally-funded programs.

B. 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 (December 28, 2000), release of information that are otherwise allowed 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)).

C. In addition, CMS will not give out information that is not directly identifiable if there is a possibility that a person with Medicare could be identified because the sample is small enough to identify participants. CMS would make exceptions if the information is needed for one of the routine uses or if it's required by law.

IV. Protections

CMS has protections in place for authorized users to make sure they are properly using the data and there is no 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 can't release data until the recipient agrees to implement appropriate management, operational and technical safeguards that will protect the confidentiality, integrity, and availability of the information and information systems.

This system would follow all applicable Federal laws and regulations, and Federal, HHS, and CMS security and data privacy policies and standards. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to all pertinent National Institute of Standards and Technology publications, the HHS Information Systems Program Handbook, and the CMS Information Security Handbook.

V. Effects on Individual Rights

CMS doesn't anticipate a negative effect on individual privacy as a result of giving out personal information from this system. CMS established this system in accordance with the principles and requirements of the Privacy Act and would collect, use, and release information that follow these requirements. CMS would only give out the minimum amount of personal data to achieve the purpose of the system. Release of information from the system will be approved only to the extent necessary to accomplish the purpose of releasing the data. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of individuals' personal information of an individuals' personal information, and, if feasible, ask that once the information is no longer needed that it be returned or destroyed.

CMS would 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. CMS would collect only information necessary to perform the system's functions. In addition, CMS would only give out information if the individual, or his or her legal representative has given approval, or if allowed by one of the exceptions noted in the Privacy Act.

Dated: February 13, 2007.

Charlene Frizzera,

Acting Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM No. 09–70–0553

SYSTEM NAME:

Medicare Drug Data Processing System (DDPS), HHS/CMS/CBC.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains summary prescription drug claim information on all covered and non-covered drug events for people with Medicare.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data in this system includes prescription drug claim data, health insurance claim number, card holder identification number, date of service, gender, and date of birth (if provided). It also contains provider characteristics, prescriber identification number, assigned provider number (facility, referring/servicing physician), national drug code, total charges, Medicare payment amount, and beneficiary's liability amount.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is mandated under provisions of the Medicare Prescription Drug, Improvement, and Modernization Act, amending the Social Security Act (the Act) by adding Part D under Title XVIII (§§ 1860D–15(c)(1)(C) and (d)(2), as described in Title 42, Code of Federal Regulations (CFR) 423.401 and 1860D–12(b)(3)(D) of the Act, as described in 42 CFR 423.505(b)(8) and (f)(3) and (5). Furthermore, this data may be disclosed pursuant to § 1106 of the Act.

PURPOSE (S) OF THE SYSTEM:

The primary purpose of this system is to collect, maintain, and process information on all Medicare covered and as many non-covered drug events as possible, for people with Medicare who have a Medicare Part D plan. The system will help CMS determine appropriate payment of covered drugs. It will also provide for processing, storing, and maintaining drug transaction data in a large-scale database, while putting data into data marts to support payment analysis. CMS would allow the release of information in this system to: (1) Support regulatory, analysis, oversight, reimbursement, and policy functions performed within the agency or by a contractor, consultant, or a CMS grantee; (2) help another Federal and/or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) help Medicare Part D plans; (4) support an individual or organization for a research, an evaluation, or an epidemiological or other project related to protecting the public's health, the prevention of disease or disability, the restoration or maintenance of health, or for payment related purposes; (5) help Quality Improvement Organizations; (6) support lawsuits involving the agency; and (7) combat fraud, waste, and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

ROUTINE USES OF DATA:

A. In addition to those entities specified in the Privacy Act of 1974, CMS may release information from the DDPS without individual consent for some routine uses. Below are the modified routine uses for releasing information without individual consent that CMS would add or modify in the DDPS.

1. To support Agency contractors, consultants, or CMS grantees who are helping CMS with the DDPS and who have a need to access the records in order to provide assistance. Recipients shall be required to comply with the requirements of the Privacy Act, 5 U.S.C. 552a.

2. To help another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent to:

a. Contribute to the accuracy of CMS' payment of Medicare benefits,

b. Administer a Federal health benefits program or fulfill a Federal statute or regulatory requirement or allowance that implements a health benefits program funded in whole or in part with Federal funds, or

c. Access data required for Federal/State Medicaid programs.

3. To support plans and other entities in protecting their members (and former

members for the periods enrolled in a given plan) against unauthorized medical expenses, including unauthorized prescription drug expenses, and providing information about events that affect their members' rights to any benefit or payment. This includes having information to coordinate benefits with Medicare and the Medicare Secondary Payer provision at 42 U.S.C. 1395y(b).

4. To assist an individual or organization with research, an evaluation, or an epidemiological or other project related to protecting the public's health, the prevention of disease or disability, restoration or maintenance of health, or for payment related purposes. CMS must:

a. Determine if the use or release of data violate legal limitations under which the record was provided, collected, or obtained;

b. Determine that the purpose for the release of information:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, (2) is of sufficient importance to warrant the effect or risk on the privacy of the individual, and

(3) Meets the objectives of the project;

c. Requires the recipient of the information to:

(1) Establish reasonable administrative, technical, and physical protections to prevent unauthorized use or release of information, (2) return or destroy the information unless there is an acceptable research reason for keeping the information, and

(3) No longer use or release information except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For use in another research project, under these same conditions and with written CMS approval,

(c) For an audit related to the research, or (d) when required by Federal law.

d. Get signed, written statements from the entity receiving the information that they understand and will follow all provisions in this notice.

e. Complete and submit a Data Use Agreement (CMS Form 0235) in accordance with current CMS policies.

5. To support Quality Improvement Organizations (QIO) in the claims review process, or with studies or other review activities performed in accordance with Part B of Title XI of the Act. QIOs can also use the data for outreach activities to establish and maintain entitlement to Medicare benefits or health insurance plans.

6. To the Department of Justice (DOJ), court, or adjudicatory body when there is a lawsuit in which the Agency, any employee of the Agency in his or her official capacity or individual capacity (if the DOJ agrees to represent the employee), or the United States Government is a party or CMS' policies or operations could be affected by the outcome. The information must be both relevant and necessary to the lawsuit, and the use of the records is for a purpose that is compatible with the purpose for which CMS collected the records.

7. To help a CMS contractor that assists in the administration of a CMS health benefits program or a grantee of a CMS-administered grant program if the information is necessary, in any capacity, to combat fraud, waste, or abuse in such program. CMS will only provide this information if CMS can enter into a contract or grant for this purpose.

8. To help another Federal agency or any United States government jurisdiction (including any State or local governmental agency) if the information is necessary, in any capacity, to combat fraud, waste, or abuse in a health benefits program that is funded in whole or in part by Federal funds.

B. 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 (December 28, 2000), release of information that are otherwise allowed 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)).

C. In addition, CMS will not give out information that is not directly identifiable if there is a possibility that a person with Medicare could be identified because the sample is small enough to identify participants. CMS would make exceptions if the information is needed for one of the routine uses or if it's required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on both tape cartridges (magnetic storage media) and in a DB2 relational database management environment (DASD data storage media).

RETRIEVABILITY:

Information is most frequently retrieved by HICN, provider number (facility, physician, IDs), service dates, and beneficiary State code.

PROTECTIONS:

CMS has protections in place for authorized users to make sure they are properly using the data and there is no 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 can't release data until the recipient agrees to implement appropriate management, operational and technical safeguards that will protect the confidentiality, integrity, and availability of the information and information systems.

This system would follow all applicable Federal laws and regulations, and Federal, HHS, and CMS security and data privacy policies and standards. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to all pertinent 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 retained until an approved disposition authority is obtained from the National Archive and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Payment Systems, Medicare Plan Payment Group, Centers for Beneficiary Choices, CMS, Room C1–26–14, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of notification, the subject individual should write to the system manager who will require the system name, and the retrieval selection criteria (e.g., HICN, facility/pharmacy number, service dates, etc.).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification

Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

Summary prescription drug claim information contained in this system is obtained from the Prescription Benefit Package (PBP) Plans and Medicare Advantage (MA–PBP) Plans daily and monthly drug event transaction reports, Medicare Beneficiary Database (09–70–0530), and other payer information to be provided by the TROOP Facilitator.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. E7–2984 Filed 2–21–07; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Directory of New Hires.

OMB No.: 0970–0166.

Description: Public Law 104–193, the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' requires the Office of Child Support Enforcement (OCSE) to operate a National Directory of New Hires (NDNH) to improve the ability of State child support enforcement agencies to locate noncustodial parents and collect child support across State lines. The law requires employers to report newly hired employees to States. States are then required to periodically transmit new hire data received from employers to the NDNH, and to transmit wage and unemployment compensation claims data to the NDNH on a quarterly basis. Federal agencies are required to report new hires and quarterly wage data directly to the NDNH. All data is transmitted to the NDNH electronically.

Respondents: Employers, State Child Support Enforcement Agencies, State Workforce Agencies, Federal Agencies.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
New Hire: Employers Reporting Manually	5,166,000	3.484	.025	449,959
New Hire: Employers Reporting Electronically	1,134,000	33.272	.00028	10,565
New Hire: States	54	83.333	66.7	300,150
Quarterly Wage & Unemployment Compensation	54	8	.033	14
Multistate Employers' Notification Form	2,808	1	.050	140

Estimated Total Annual Burden Hours: 760,828.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after the 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, FAX: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: February 15, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–789 Filed 2–21–07; 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: Needs Assessment for Promoting Cultural Competence and Diversity in Youth Mentoring Programs Toolkit.

OMB No.: New Collection.

Description: The Department of Health and Human Services' (HHS) Mentoring Children of Prisoners (MCP) program, administered under the Family Youth Services Bureau (FYSB) within the Administration for Children and Families (ACF), was authorized by the Promoting Safe and Stable Families Act of 2001 (SSFA, Pub. L. 107–133). The MCP program is designed to nurture children who have one or both parents incarcerated. The Secretary of HHS is mandated to appropriate funds for the MCP grant program, specifically for evaluation, research, training, and technical assistance. In FY 2004, grantees began submitting progress reports to HHS.

FYSB will conduct an assessment of the mentoring community to identify and assess needs for the purpose of building a toolkit of practical information and tools to assist mentoring programs in promoting cultural competence and diversity of their programs. The toolkit modules address recruiting minority mentors, assessing and matching mentors and mentees, training, educating program staff and participants, and promoting ethnic identity development.

Respondents: Mentoring Children of Prisoners grantees and National Mentoring Partnership (MENTOR) affiliated mentoring organizations.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Mentoring ToolKit Web-based Needs Assessment Questionannaire	442	1	.75	332
Mentoring ToolKit Web-based focus group	40	1	1	40
Mentoring ToolKit Web-based Feedback questionnaire	100	1	.25	25

Estimated Total Annual Burden Hours: 397

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: February 15, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–790 Filed 2–21–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E–0252]

Determination of Regulatory Review Period for Purposes of Patent Extension; LEVEMIR

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for LEVEMIR and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product LEVEMIR (insulin determir (rDNA origin)). LEVEMIR is indicated for once or twice-daily subcutaneous administration in the treatment of adult patients with diabetes mellitus who require basal (long acting) insulin for the control of hyperglycemia. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for LEVEMIR (U.S. Patent No. 5,750,497) from Novo Nordisk A/S, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 24, 2006, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of LEVEMIR represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for LEVEMIR is 2,896 days. Of this time, 1,971 days occurred during the testing phase of the regulatory review period, while 925 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: July 14, 1997. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 14, 1997.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: December 5, 2002. FDA has verified the applicant's claim that the new drug application (NDA) for LEVIMIR (NDA 21–536) was initially submitted on December 5, 2002.

3. *The date the application was approved*: June 16, 2005. FDA has verified the applicant's claim that NDA 21–536 was approved on June 16, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension,

this applicant seeks 1,496 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by April 23, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 21, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 3, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–3001 Filed 2–21–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3271–EM]

Colorado; Amendment No. 3 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Colorado (FEMA–3271–EM), dated January 7, 2007, and related determinations.

EFFECTIVE DATE: February 12, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Colorado is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 7, 2007:

Cheyenne, Huerfano, and Kiowa Counties for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–2948 Filed 2–21–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1680–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1680–DR), dated February 8, 2007, and related determinations.

EFFECTIVE DATE: February 8, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 8, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Florida resulting from severe storms, tornadoes, and flooding on December 25, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Jesse Munoz, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Volusia County for Individual Assistance.

All counties within the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–2935 Filed 2–21–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1681–DR]

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1681–DR), dated February 9, 2007, and related determinations.

EFFECTIVE DATE: February 9, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 9, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from a severe winter storm during the period of November 30 to December 1, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Michael H. Smith, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster:

Bond, Calhoun, Christian, DeWitt, Fayette, Jersey, Logan, Macon, Macoupin, Madison, McLean, Monroe, Montgomery, Piatt, Sangamon, Shelby, St. Clair, and Woodford Counties for Public Assistance.

All counties within the State of Illinois are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–2954 Filed 2–21–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1676–DR]

Missouri; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1676–DR), dated January 15, 2007, and related determinations.

EFFECTIVE DATE: February 9, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 15, 2007:

Barry, Camden, Christian, Crawford, Dade, Dallas, Franklin, Gasconade, Greene, Hickory, Jasper, Laclede, Lawrence, Maries, McDonald, Miller, Newton, Osage, Phelps, Polk, Pulaski, St. Clair, Stone, Webster, and Wright Counties for Public Assistance Categories C–G (already designated for Public Assistance Categories A and B [debris removal and emergency protective measures], including direct Federal assistance.)

Benton, Boone, Cedar, and Texas Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–2950 Filed 2–21–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Committee.

DATES: March 2, 2007, at 9 a.m.

ADDRESSES: Exxon Valdez Oil Spill Trustee Council Office, 441 West 5th Avenue, Suite 500, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska 99501, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. The meeting agenda will include a

discussion of the mission and vision for the restoration program, and a review of pending proposals for inclusion in the fiscal year 2007 work plan.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. E7–2942 Filed 2–21–07; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Information Collection; OMB Control Number 1018–0093; Federal Fish and Wildlife License/Permit Applications, Management Authority, 50 CFR 13, 15, 17, 18, 21, and 23

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC, which is scheduled to expire on June 30, 2007. We 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.

DATES: You must submit comments on or before April 23, 2007.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

This IC covers permit applications that our Division of Management Authority uses to determine the eligibility of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties, including:

(1) Endangered Species Act (16 U.S.C. 1531 et seq.).

(2) Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

(3) Lacey Act (16 U.S.C. 3371 et seq.).

(4) Bald and Golden Eagle Protection Act (16 U.S.C. 668).

(5) Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (27 U.S.T. 1087).

(6) Marine Mammal Protection Act (16 U.S.C. 1361–1407).

(7) Wild Bird Conservation Act (16 U.S.C. 4901–4916).

Service regulations implementing these statutes and treaties are in Chapter I, Subchapter B of Title 50, Code of Federal Regulations (CFR). These regulations stipulate general and specific requirements that when met allow us to issue permits to authorize activities that are otherwise prohibited.

This revised IC includes:

(1) Modifications to the format and content of the currently approved application forms so that they are easier to understand and complete.

(2) FWS Forms 3–200–61, 3–200–69, and 3–200–70, which are currently approved under OMB control numbers 1018–0130 and 1018–0022.

(3) FWS Form 3–200–76, which is a new form for the export of caviar or meat of paddlefish or sturgeon from the wild. Applicants currently use FWS Form 3–200–27 for this activity. The new form will simplify the reporting requirements and reduce burden on the public.

II. Data

OMB Control Number: 1018–0093.

Title: Federal Fish and Wildlife License/Permit Applications, Management Authority, 50 CFR 13, 15, 17, 18, 21, and 23.

Service Form Number(s): 3–200–19 through 3–200–37, 3–200–39 through 3–200–53, 3–200–58, 3–200–61, 3–200–64 through 3–200–66, 3–200–69 to 3–200–70, 3–200–73, and 3–200–76.

Type of Request: Revision of currently approved collection.

Affected Public: Individuals, biomedical companies, circuses, zoological parks, botanical gardens, nurseries, museums, universities, scientists, antique dealers, exotic pet industry, hunters, taxidermists, commercial importers/exporters of wildlife and plants, freight forwarders/brokers, local, State, tribal, and Federal governments.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

The following table lists the application forms and burden estimates. We have rounded the annual burden hours for each form to the nearest hour. Those applications with an asterisk (*) have a reporting requirement for the associated permit. Each permit specifies the required report information.

Application Forms	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
3–200–19/ Import of Sport-hunted Trophies of Southern African Leopard, African Elephant, and Namibian Southern White Rhinoceros.	1,031	1,078	20 minutes	359
3–200–20/ Import of Sport-Hunted Trophies (Appendix I of CITES and/or ESA).	15	21	1 hour	21
3–200–21/ Import of Sport-Hunted Trophies of Argali	134	182	45 minutes	137
3–200–22/ Import of Sport-Hunted Bontebok Trophies	70	95	20 minutes	32
3–200–23/ Export of Pre-Convention, Pre-Act, or Antique Specimens (CITES and/or ESA).	127	241	45 minutes	181
3–200–24/ Export of Live Captive-Born Animals (CITES)	171	483	45 minutes	362
3–200–25/ Export of Raptors	46	63	1 hour	63
3-200–26/ Export of skins/products of 7 native species: bobcat, lynx, river otter, American alligator, Alaskan brown bear, black bear, and gray wolf.	618	843	20 minutes	281
3–200–27/ Export of Wildlife Removed from the Wild (CITES).	69	114	45 minutes	86
3–200–28/ Export/Re-Export of Trophies by Hunters or Taxidermists (CITES).	57	95	30 minutes	48
3–200–29/ Import/Export/Re-Export of Wildlife Samples and/or Biomedical Samples (CITES).	108	268	1 hour, 10 minutes.	313

Application Forms	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
3–200–30/ Export/Reexport/Reimport of Circuses and Traveling Animal Exhibitions.	73	80	1 hour	80
3–200–31/ Introduction from the Sea (CITES)	3	3	2 hours	6
3–200–32/ Export/Re-Export of Plants (CITES)	106	619	1 hour	619
3–200–33/ Export of Artificially Propagated Plants (Multiple Commercial Shipments).	20	303	2 hours	606
3–200–34/ Export of American Ginseng (Commercial only)*	41	107	20 minutes	36
3–200–35/ Import of Appendix-I Plants (CITES)	1	1	1 hour	1
3–200–36/ Export/Import/InterState and Foreign Commerce of Plants*.	1	1	1 hour	1
3–200–37/ Export/Import/Interstate and Foreign Commerce/ Take of Animals*.	111	165	2 hours	330
3–200–39/ Certificate of Scientific Exchange (COSE)*	7	7	1 hour	7
3–200–40/ Export and Re-Import of Museum Specimens*	2	2	1 hour	2
3–200–41/ Captive-Bred Wildlife Registration*	87	87	2 hours	174
3–200–42/ Import/Acquisition/Transport of Injurious Wildlife	21	21	1 hour	21
3-200–43/ Take/Import/Transport/Export of Marine Mammals or Amendment of Existing Permit*.	16	19	2 hours, 20 minutes.	44
3–200–44/ Registration of An Agent/Tannery*	1	1	30 minutes	1
3–200–45/ Import of Polar Bear Trophies Sport-Hunted in Canada (MMPA).	78	78	30 minutes	39
3–200–46/ Import/Export of Personal Pets (WBCA and or CITES).	335	343	30 minutes	172
3–200–47/ Import of Birds for Scientific Research or Zoological Breeding and Display (WBCA).	7	16	2 hours	32
3–200–48/ Import of Birds Under an Approved Cooperative Breeding Program (WBCA)*.	4	4	1 hours	4
3–200–49/ Approval, Amendment or Renewal of a Cooperative Breeding Program (WBCA).	4	4	3 hours	12
3–200–50/ Approval of Sustainable Use Management Plan Under the Wild Bird Conservation Act.	1	1	10 hours	10
3–200–51/ Approval of a Foreign Breeding Facility Under the Wild Bird Conservation Act.	1	1	8 hours	8
3–200–52/ Reissuance or Renewal of a Permit	147	200	15 minutes	50
3–200–53/ Export/Re-Export of Live Captive-Held Marine Mammals (CITES).	4	4	2 hours	8
3–200–58/ Supplemental Application for a Retrospective Document (CITES).	50	50	1 hour	50
3–200–61/ CITES Export Programs*	25	25	43 hours, 30 minutes.	1,088
3–200–64/ Certificate of Ownership for Personally Owned Wildlife ''Pet passport'' (CITES).	115	137	30 minutes	69
3–200–65/ Registration of Appendix-I Commercial Breeding Operations (CITES).	2	2	40 hours	80
3–200–66/ Replacement Document (CITES)	50	50	30 minutes	25
3–200–69/ CITES Import/Export- Eagle Transport for Scientific or Exhibition Purposes.	1	1	30 minutes	1
3–200–70/ CITES Import/Export- Eagle Transport for Indian Religious Purposes.	16	16	30 minutes	8
3–200–73/ Re-Export of Wildlife (CITES)	3,985	5,433	30 minutes	2,717
3–200–76/ Export of Caviar or Meat of Paddlefish or Sturgeon Removed from the Wild (CITES)*.	12	120	3 hours	360
Totals	7,773	11,384		8,544

III. Request for Comments

We invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to approve this information collection.

Dated: January 25, 2007

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E7–2959 Filed 2–21–07; 8:45 pm]

Billing Code 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Information Collection; OMB Control Number 1018–0132; Research to Support Analysis and Management Carrying Capacity at Lake Umbagog National Wildlife Refuge, Phase 2

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC, which is scheduled to expire on May 31, 2007. We 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.

DATES: You must submit comments on or before April 23, 2007.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

Lake Umbagog National Wildlife Refuge contains significant natural and recreational resources. We estimate that the area has over 50,000 visits per year, which can result in significant resource and social impacts.

In 2006, we began a research study to gather information to help support application of visitor carrying capacity at the refuge. We conducted a survey of visitors to the refuge to determine relevant indicators of quality for the visitor experience. Indicators of quality are measurable, manageable variables that reflect the essence or meaning of management objectives. OMB approved this collection of information and assigned control number 1018–0132, which expires May 31, 2007.

We plan to ask OMB to renew this information collection to include phase 2 of this study. During phase 2, we propose to survey visitors and nearby landowners to identify standards of quality for relevant indicator variables and determine attitudes toward management actions that we might use to ensure that the standards of quality are maintained. We will conduct two separate surveys. One survey will include a sample of visitors to Lake Umbagog National Wildlife Refuge and the second survey will include private landowners adjacent to the refuge. We will collect the same information in both surveys; however, we will ask adjacent landowners for additional information about their frequency of use of the refuge.

II. Data

OMB Control Number: 1018–0132.

Title: Research to Support Analysis and Management Carrying Capacity at Lake Umbagog National Wildlife Refuge, Phase 2.

Service Form Number(s): 3–2330 and 3–2330a.

Type of Request: Revision of currently approved collection.

Affected Public: Visitors to and landowners near Lake Umbagog National Wildlife Refuge.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time per respondent.

Estimated Annual Number of Respondents: 500.

Estimated Total Annual Responses: 500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 125.

III. Request for Comments

We invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to approve this information collection.

Dated: January 22, 2007

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E7–2960 Filed 2–21–07; 8:45 pm]

Billing Code 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Information Collection; National Wildlife Refuge System Evaluation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this information collection.

DATES: You must submit comments on or before April 23, 2007.

ADDRESSES: Send your comments on the information collection to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

We have contracted with Management Systems International to perform an independent evaluation of the National Wildlife Refuge System (NWRS). Although the NWRS has existed for more than 100 years, it has never undergone an independent evaluation of its overall effectiveness in achieving its conservation mission. We are now seeking such an evaluation to identify program strengths and weaknesses, as well as gaps in performance information. Such evaluations are an important element of the OMB Program Assessment Rating Tool (PART) assessments, and this evaluation will satisfy the PART requirements. The evaluation includes two data collection components involving the public:

(1) An online survey of partners (e.g., volunteer groups, local and national conservation organizations, hunting and fishing groups, and other civic organizations).

(2) Individual and small group interviews of State fish and game officials and partners.

The perspective and observations of NWRS partners and State fish and game officials are critical to fully understand the issues and questions that the independent evaluation will explore. During 2007, we plan to interview 40 State fish and wildlife officials and 110 individuals from partner organizations. The small number of individuals interviewed and the nature of the interview process do not allow for generalization of interview findings to

the larger local partner target population, or for the development of broad, evidenced-based conclusions.

The partners' survey addresses both of these shortcomings. By administering the web-based survey to a random sample of 500 partners, we will be able to identify important patterns (findings) across the population of partners and to develop conclusions to the key questions being examined by the evaluation. We plan to conduct the survey for a 2–week period during the first half of 2007. The partners' survey will collect data in three broad categories:

(1) Basic demographic data at the institutional level, including:

(a) Size of the partner organization.

(b) Length/duration of the partnership with the refuge.

(c) Type of organization (e.g., wildlife conservation, educational, etc.).

(2) Quality and characteristics of the relationship and interaction between partner organizations and the NWRS, including:

(a) Type of activities that the partner group conducts.

(b) Frequency and nature of interaction between the partner group and the refuge.

(c) Quality of the partnership between the partner organization and the refuge.

(3) Partners' perspective regarding the effectiveness and quality of NWRS programs and the progress being made towards the long-term goals of the NWRS.

The survey data will help us identify important patterns and characteristics. However, the survey will not, in most cases, provide the depth of information necessary to explain the observed patterns. Indepth interviews will provide an opportunity to explore in detail the main factors that cause or contribute to the patterns observed from the survey.

II. Data

OMB Control Number: None.

Title: National Wildlife Refuge System Evaluation.

Service Form Number(s): None.

Type of Request: New collection.

Affected Public: Organizations that collaborate with national wildlife refuges, including, but not limited to, State fish and wildlife agencies, volunteer groups, local and national conservation organizations, hunting and fishing groups, and other civic organizations.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
Partners' Survey	500	500	20 minutes	167
Personal Interviews	150	150	1 hour	150
Total	650	650		317

III. Request for Comments

We invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to approve this information collection.

Dated: January 17, 2007

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E7–2961 Filed 2–21–07; 8:45 pm]

Billing Code 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; Export of Caviar or Meat of Paddlefish or Sturgeon from the Wild

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. We 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.

DATES: You must submit comments on or before March 26, 2007.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–6566 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail, fax, or e-mail (see **ADDRESSES**), or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: None.

Title: Export of Caviar or Meat of Paddlefish or Sturgeon from the Wild.

Service Form Number(s): 3–200–76.

Type of Request: New collection.

Affected Public: Fishers; commercial dealers/distributors/suppliers and importers/exporters of paddlefish and sturgeon caviar and meat; and freight forwarders/brokers.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Annual Number of Respondents: 12.

Estimated Total Annual Responses: 120.

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden Hours: 360 hours.

Abstract: This information collection is associated with regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES regulates international trade in listed species through a system of permits and certificates. The Service assesses permit requests according to

criteria in CITES and Federal regulations for the issuance, suspension, revocation, or denial of permits.

We have developed a new permit application form specific to permit requests for the export of caviar and/or meat of wild-origin paddlefish and/or U.S. native sturgeon species. In the past, we have used FWS Form 3–200–27 (Export of Wildlife Removed from the Wild) to collect the information necessary for us to evaluate these permit requests. When using that general form, applicants have had considerable difficulty understanding what information is necessary and how to supply it. The new form, FWS Form 3–200–76, clarifies these issues.

Comments: On September 20, 2006, we published in the **Federal Register** (71 FR 55004) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on November 20, 2006. In addition, we conducted public outreach by sending a copy of the notice to members of the caviar community and asked for their comments. We received two comments.

One commenter was a State fisheries coordinator who supported the new form. The second commenter stated that the proposed form has more focused information and would assist applicants in preparing applications. The second commenter also had two suggestions:

(1) That we increase the estimated time to complete the application. After considering this comment, we increased the estimated average time to complete an application to 3 hours and revised the estimated annual burden on the public.

(2) That we revise the wording in the application to more accurately reflect how caviar exporters work. Wholesalers and suppliers typically do not provide the fishermen information directly to the applicant because it may be considered proprietary information. Due to the concern, we are not requiring that the intermediary provide the information to the applicant who is responsible for submitting the application. Instead, the supplier may submit it directly to the Service provided that it is clear which application is being referenced. In such cases, if the supplier believes the information is proprietary, the supplier should identify it as proprietary and/or business confidential, as appropriate. The applicant is still responsible for providing a complete application to the Service.

We again invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice are a matter of public record.

Dated: January 22, 2007

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E7–2962 Filed 2–21–07; 8:45 pm]

Billing Code 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and marine mammals.

DATES: Written data, comments or requests must be received by March 26, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Denver Zoological Gardens, Denver, CO, PRT–144259.

The applicant requests a permit to import one male bred-in-captivity Malayan tapir (*Tapirus indicus*) from the Belfast Zoo, Belfast, Ireland, for the purpose of enhancement of the survival of the species.

Applicant: Lincoln Park Zoo, Chicago, IL, PRT–144119.

The applicant requests a permit to export hair from one male Bactrian camel (*Camelus bactrianus*) to the United Kingdom for the purpose of scientific research.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT–144258.

The applicant requests a permit to export one male captive bred giant panda (*Ailuropoda melanoleuca*) born at the zoo in 2003 and owned by the Government of China, to the Wolong Nature Reserve, China under the terms of their loan agreement with the China Wildlife Conservation Association. This export is part of the approved loan program for the purpose of enhancement of the survival of the species through scientific research as outlined in the Zoological Society of San Diego's original permit.

Applicant: Detroit Zoological Institute, Royal Oak, MI, PRT–135623.

The applicant requests a permit to export one male captive bred Central American river turtle (*Dermatemys mawii*) to the Prague Zoo, Czech Republic, for the purpose of enhancement of the survival of the species through captive breeding.

Applicant: Dort S. Bigg, Turner, ME, PRT–144848.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: John C. Knight, Howey in the Hills, FL, PRT–140177.

The applicant requests a permit to import the sport-hunted trophy of one scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application for a permit to

conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Charles P. Kupfer, Millbury, MA, PRT–143853.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: January 19, 2007.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–2939 Filed 2–21–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgment of the Mashpee Wampanoag Indian Tribal Council, Inc. of Massachusetts

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of final determination.

SUMMARY: Pursuant to 25 CFR 83.10(l)(2), notice is hereby given that the Department of the Interior (Department) has determined that the Mashpee Wampanoag Indian Tribal Council, Inc., P.O. Box 1048, Mashpee, Massachusetts, 02649, is an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner satisfies all seven mandatory criteria set forth in 25 CFR 83.7, and thus meets the requirements for a government-to-government relationship with the United States.

DATES: This determination is final and will become effective 90 days from publication of this notice in the **Federal Register** on May 23, 2007, pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is filed pursuant to 25 CFR 83.11.

ADDRESSES: Requests for a copy of the Summary Evaluation of the Criteria should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS: 34B–SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the ADS by Secretarial Order 3259, of February 8, 2005, as amended on August 11, 2005, and on March 31, 2006. This notice is based on a determination that the Mashpee Wampanoag Tribal Council, Inc. (MWT) meets all of the seven mandatory criteria for acknowledgment in 25 CFR 83.7.

The Department considered the Mashpee petition under slightly modified timeframes set by a July 22, 2005, Joint Settlement Agreement and Stipulated Dismissal (Agreement) resolving the case of *Mashpee Wampanoag Tribal Council, Inc.* v. *Norton*, 180 F. Supp. 2d 130 (D.D.C. 2001), rev'd, 336 F.3d 1094 (D.C. Cir. 2003), *on remand*, No. CA 01–111 JR (D.D.C.).

A notice of the proposed finding (PF) to acknowledge the petitioner was published in the **Federal Register** on April 6, 2006 (71 FR 17488). Publishing notice of the PF initiated a 180-day comment period during which time the petitioner, and interested and informed parties, could submit arguments and evidence to support or rebut the PF. The comment period ended on October 3, 2006. The regulations at 25 CFR 83.10(k) provide the petitioner a minimum of 60 days to respond to comments that interested and informed parties submitted on the PF during the 180-day comment period. The Agreement modified this timeframe, providing the petitioner a 30-day response period, which ended on November 1, 2006. This final determination (FD) is made following a review of the petitioner's and public comments as well as the petitioner's response to the public comments.

During the comment period, the petitioner submitted an updated membership list, supplemental genealogical and governmental materials, and historical documents, in response to requests for information made by the Department in the PF and in an informal technical assistance teleconference with the petitioner. These materials did not change the conclusions of the PF. The Department received several letters of support from the public for the Mashpee group. These letters did not provide substantive comment. The Department also received a letter from a former selectman of the Town of Mashpee pertaining to negotiations between the petitioner and the Town. This letter did not comment substantively on the PF. The only substantive comment by interested or informed parties came from the Office of the Massachusetts Attorney General (Massachusetts AG), to which the petitioner submitted a response on October 30, 2006. The Massachusetts AG's comments are discussed under criteria 83.7(b) and 83.7(c) below.

Criterion 83.7(a) requires external identifications of the petitioner as an American Indian entity on a substantially continuous basis since 1900. The PF concluded external observers identified the petitioning group as an American Indian entity on a substantially continuous basis since 1900. However, it pointed out that the available identifications of the Mashpee in the record for 1900–1923 constituted sufficient but minimal evidence for substantially continuous identification for those years, and encouraged the petitioner to strengthen its evidence for criterion 83.7(a) by submitting additional identifications for that period. In response, the petitioner submitted a new argument concerning a 1907 document. As reevaluated for the FD, this document provides an additional identification of the Mashpee. When combined with the other identifications in the record for the PF for those years, the additional evidence is sufficient to show consistent identifications of the Mashpee from 1900 to 1923. The evidence submitted for both the PF and the FD demonstrates external observers identified the Mashpee as an Indian entity on a substantially continuous basis since 1900. Therefore, the petitioner meets the requirements of criterion 83.7(a).

Criterion 83.7(b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The PF concluded that the petitioner presented sufficient evidence to satisfy this criterion. During the comment period, in response to the Department's request for information, the petitioner submitted a copy of the 1776 Gideon Hawley census of Mashpee. As part of an analysis of residential patterns of the Mashpee group for the colonial and Revolutionary periods, the PF described this document's details using only descriptions of it from both State reports and secondary sources. For the FD, Department researchers analyzed the newly-submitted 1776 Hawley census

and found that it supported the PF's conclusions regarding the residential patterns of the group for the colonial and Revolutionary periods.

In its comments on the PF dated October 2, 2006, the Massachusetts AG expressed concern that the PF did not adequately consider the evidence contained in the record of the lengthy jury trial in the Mashpee's land claim suit of 1977–1978. The jury concluded that the Mashpee group did not constitute an Indian tribe for purposes of the Indian Nonintercourse Act (25 U.S.C. 177). See *Mashpee Tribe* v. *Town of Mashpee*, 447 F. Supp. 940 (D. Mass. 1978), aff'd, *Mashpee Tribe* v. *New Seabury Corp.*, 592 F. 2d 575 (1st Cir. 1979). In particular, the Massachusetts AG cited the testimony of the defendants' two expert witnesses at specific sections of the trial transcript as examples of evidence that appeared to militate against Federal acknowledgment of the group. The Massachusetts AG then urged the Department to give the trial record of the case the fullest review before issuing the FD. In a follow-up letter dated October 3, 2006, the Massachusetts AG clarified that it was not taking a position on the recognition of the Mashpee in its October 2, 2006, comments, but was simply addressing those issues related to its concerns about adequate consideration of the evidence in the 1978 trial record.

The Department gave the evidence from the trial record a thorough review at the time of the PF. The Department examined all of the transcripts of the testimony (over 7,300 pages) as part of its evaluation of the Mashpee petition before the PF's issuance. Although quality, not quantity, is critical, the Department also based the PF on considerably more evidence, over 10,100 documents totaling about 54,000 pages in the petition record. In contrast, there were only about 274 exhibits before the Court. None of these materials with the exception of the exhibits were available to the court at the time of the trial. In response to the Massachusetts AG's comments, the Department reviewed again the evidence from the trial record, particularly the cited testimony of the defendants' two expert witnesses. This review did not change the findings in the PF.

The PF additionally examined the group's community and politics for the lengthy period since the suit, approximately 30 years, as well as the earlier periods. It also incorporated more in-depth evaluations of the evidence, including detailed marriage and residency analyses, as well as 31 interviews conducted by the Department's anthropologist during an on-site investigation in 2006.

Criterion 83.7(b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The PF addressed the issues dealing with distinct community raised by the defendants' expert witnesses in the trial transcript pages cited by the Massachusetts AG. Generally, the two witnesses argued the Mashpee lacked cultural distinctiveness and economic autonomy from the wider society and therefore were not a tribe. The Federal acknowledgment regulations, however, do not require a petitioner to maintain cultural distinctiveness or economic autonomy to be an Indian community. Instead, the regulations require the petitioner to be a socially distinct group of people within the wider society. In the Mashpee case, the PF described at length their continued community cohesion and social distinction from non-Indian populations since first sustained contact.

In sum, neither the comments of the Massachusetts Attorney General nor the evidence in the trial transcript it referenced changed the PF's conclusions that the Mashpee were a distinct community (criterion 83.7(b)). The Massachusetts AG raised concerns that the Department may not have fully considered the evidence and issues raised in the trial transcript. The PF was thorough in its review of the materials in the trial transcript and a larger body of evidence that the court did not have in the land claim suit. This FD reevaluated the evidence in the trial testimony. In response to the comments submitted by the Massachusetts AG citing the testimony of the two defendants' witnesses, the FD reviewed this testimony and finds that the standards and definitions of a tribe used by these witnesses differ substantially from the requirements in the seven mandatory criteria of the regulations. The FD also finds that the trial testimony did not provide any evidence or arguments not already discussed in the PF, and did not merit a change in the evaluation of the evidence under criterion 83.7(b) in the PF. Therefore this FD affirms the PF's conclusions. The petitioner meets the requirements of criterion 83.7(b).

Criterion 83.7(c) requires that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. The PF concluded that the petitioner presented sufficient evidence to satisfy this criterion. Neither the petitioner nor any third parties submitted new evidence related to the PF's conclusions regarding criterion 83.7(c). Several of the pages in the trial transcript of the 1977–1978 land claim suit that the Massachusetts AG cited in its comments dealt with issues related to criterion 83.7(c). The defendants' expert witnesses claimed, for instance, that the Mashpee were not a tribe because they lacked political autonomy from the wider society. The acknowledgment regulations only require political autonomy in relation to other Indian groups, defining autonomy as the exercise of political authority independent of any other Indian governing entity (See 25 CFR section 83.1). Participation in the political processes of the wider society, as in the Mashpee's case, is not evidence that a group does not exist as an Indian tribe exercising political influence or authority over its members. These witnesses also tended to ignore or minimize informal forms of leadership based on consensus and persuasion, and alternative forms of governance the Mashpee adopted in response to their unique history, geography, culture, and social organization, in favor of restrictive and limited notions of Indian leadership.

Political influence over the group's members was demonstrated by a long line of Mashpee leaders. Since the colonial period, the Mashpee have had sachems, proprietors, spiritual leaders, informal leaders, district and town officials, and council members who influenced and were influenced by the members on political matters of importance. The PF also showed group members considered the actions of their leaders important and were highly involved in political processes.

In sum, the reevaluation of the evidence in the trial transcript referenced in the comments of the Massachusetts AG did not result in a modification of the PF's conclusions that the Mashpee demonstrated political influence (criterion 83.7(c)). The PF dealt with the issues raised in the trial testimony affecting the evaluation of evidence under criterion 83.7(c) in its review of the materials in the trial transcript and a larger body of evidence that the court did not have in the land claim suit. This FD reevaluated the evidence in the trial testimony. In response to the comments submitted by the Massachusetts AG citing the testimony of the two defendants' witnesses, the FD reviewed this testimony and finds that the standards and definitions of a tribe used by these witnesses differ substantially from the requirements in the seven mandatory

criteria of the regulations. The FD finds that this material did not provide any evidence or arguments not already discussed in the PF, and did not merit a change in the evaluation under criterion 83.7(c) that the Mashpee demonstrated political influence from first historical contact to the present. Therefore, the petitioner meets the requirements of criterion 83.7(c).

The PF found that the petitioner met the requirements of criterion 83.7(d) by submitting its present governing document: a constitution dated September 28, 2004, which described the group's membership criteria and the current governing procedures. For the FD, the petitioner submitted a membership enrollment ordinance dated September 21, 2006, which clarifies certain sections of the constitution and provides additional evidence concerning the group's membership criteria. The FD affirms the PF's conclusion that the petitioner meets the requirements of criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. The PF found that 88 percent of the petitioning group descended from the historical tribe and met the requirement for criterion 83.7(e). The PF advised the petitioner to submit evidence to document descent for the remaining 12 percent and to update its membership list.

In response, the MWT submitted a properly certified membership list dated September 13, 2006, naming 1,453 members. The petitioner provided evidence acceptable to the Secretary demonstrating that about 97 percent of its members (1,403 of 1,453) descend from the historical Mashpee tribe as defined by the 1861 Earle Report. About 2 percent (41 members) descend from the two Christiantown Wampanoag Indian families, Peters-DeGrasse and Peters-Palmer, who did not document descent from the historical tribe as defined in the Earle Report, but who are defined as qualifying ancestors in the MWT constitution. One of these families settled in Mashpee shortly after 1861 and became part of the group by the early 1900's. Descendants of both families became part of Mashpee community socially and politically by the mid-20th century. Nine remaining members (about 1 percent), do not have complete birth records naming parents, but are expected to be able to provide the proper evidence.

The new evidence for the FD modifies the PF's conclusions by changing the number of members in the MWT from 1,462 to 1,453 and the percentage of members who have documented descent from the historical tribe from about 88 percent to approximately 97 percent. The evaluation of additional documentation submitted strengthens the conclusion that the Mashpee petitioner meets the requirements of criterion 83.7(e). This FD concludes that the evidence is sufficient to meet the requirements of criterion 83.7(e).

Criterion 83.7(f) requires that the membership of the petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. A review of the available documentation for the PF and the FD revealed that the membership is composed principally of persons who are not members of any acknowledged North American Indian tribe. Therefore, the petitioner meets the requirements of criterion 83.7(f).

Criterion 83.7(g) requires that neither the petitioner nor its members be the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. A review of the available documentation for the PF and the FD showed no evidence that the petitioning group was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. Therefore, the petitioner meets the requirements of criterion 83.7(g).

A report summarizing the evidence, reasoning, and analyses that are the bases for the FD will be provided to the petitioner and interested parties, and is available to other parties upon written request.

After the publication of notice of the FD, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures set forth in section 83.11 of the regulations. The IBIA must receive this request no later than 90 days after the publication of the FD in the **Federal Register**. The FD will become effective as provided in the regulations 90 days from the **Federal Register** publication unless a request for reconsideration is received within that time.

Dated: February 15, 2007.

James E. Cason,

Associate Deputy Secretary.

[FR Doc. E7–2966 Filed 2–21–07; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Two Permits for Incidental Take of a Threatened Species to the Cedar City Corporation and the Paiute Indian Tribe in Iron County, UT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; issuance of permit.

SUMMARY: This document provides notice that we, the U.S. Fish and Wildlife Service, issued two permits for the incidental take of the Utah prairie dog, a threatened species, on the Cedar Ridge Golf Course and the Paiute Tribal Lands in Iron County, Utah.

ADDRESSES: Documents and other information submitted with the permit application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, from the U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, Fish and Wildlife Service, 2369 W. Orton Circle, Suite 50, West Valley City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: Elise Boeke, Fish and Wildlife Biologist, Utah Field Office (see **ADDRESSES**), telephone (801) 975–3330.

SUPPLEMENTARY INFORMATION: On May 15, 2006, we published a notice in the **Federal Register** (71 FR 28048) announcing that we had received an application from the Cedar City Corporation and the Paiute Indian Tribe (Applicants), for permits to incidentally take, under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), the Utah prairie dog on the Cedar Ridge Golf Course and the Paiute Tribal Lands in Iron County, Utah.

On January 5, 2007, we issued permits (TE–125039–0, TE–143347–0) to the Applicants subject to certain conditions, which we listed on the permit. We issued the permits only after we determined that—(1) The Applicants applied in good faith, (2) granting the permits will not be to the disadvantage of the Utah prairie dog, and (3) issuing the permits will be consistent with the purposes and policy set forth in the Act.

Authority: The action is authorized by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: January 5, 2007.

Mike Stempel,

Acting Regional Director, Region 6.

[FR Doc. E7–2981 Filed 2–21–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–1430–EU; A–033531, AA–086554]

Notice of Realty Action: Direct Sale of Reversionary Interest of Recreation and Public Purposes Patent; Eagle River, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: Reversionary interest held by the United States in 3.9 acres of land located in Eagle River, Alaska, has been determined to be suitable for direct sale to the Corporation of Saint Andrew's Parish of the Archdiocese of Anchorage under the authority of Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at not less than fair market value of $850,000.

DATES: Comments must be received by 45 days from the date of publication of this Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert Lloyd, BLM Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507, (907) 267–1246.

SUPPLEMENTARY INFORMATION: The lands, located in Eagle River, Alaska, are described as:

Seward Meridian

T. 14 N., R. 2 W.
Sec. 11, Lots 7 and 10 (3.9 acres).

The lands are currently owned by the Corporation of Saint Andrew's Parish of the Archdiocese of Anchorage and continue to be operated as Saint Andrew's Catholic Church. The patent for the lands is restricted by a reversionary clause. The lands are isolated, difficult and uneconomic for BLM to manage as part of the public lands and not needed for Federal purposes. The sale is consistent with BLM's land use planning for the area. The sale will further the original intent of the patent by facilitating the landowners' long-term growth and development goals.

Title to these lands was transferred to the Corporation of the Catholic Bishop of Juneau on October 6, 1960 (Pat. 1213492), using the Act of Congress of June 14, 1926 (44 Stat. 741: 43 U.S.C. 869), as amended by the Recreation and Public Purpose Act of June 4, 1954 (68 Stat. 173), and September 21, 1959 (73 Stat. 751), (the Act) as the authority for the transfer. The patent is subject to a reversionary clause as required by the Act. The subject lands, lots 7 and 11, comprise two of the 13 lots owned by the church in this location. Lots 7 and 11 are the only lots that contain a reversionary clause. The church has fee title to the remaining properties that surround lots 7 and 11. The patent, when issued, will be for the reversionary interest only. All other terms and conditions of Patent No. 1213492 will continue to apply.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments regarding the proposed direct sale of the reversionary interest to the BLM Anchorage Field Office Manager at the address above. Adverse comments will be evaluated and could result in the modification or vacation of this decision. The reversionary interest will not be offered for conveyance until at least 60 days after the date of this Notice.

Any written comments received during this process, as well as the commenter's name and address, will be available to the public in the administrative record and/or pursuant to Freedom of Information Act requests. You may indicate for the record that you do not wish to have your name and/or address made available to the public. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A request from a commenter to have name or address withheld from public release will be honored to the extent permissible by law.

Dated: January 22, 2007.

Mike Zaidlicz,

Acting Field Manager.

[FR Doc. E7–2953 Filed 2–21–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. Dairy Farmers of America et al.; Response to Public Comments on the Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes the public comments received on the proposed Final Judgment in *United States of America et al.* v. *Dairy Farmers of America, Inc. et al.,* Civil Action No. 6:03–206–KSF and the responses to such public comments. On April 24, 2003, the United States and Commonwealth of Kentucky filed a Complaint alleging that the acquisition by Dairy Farmers of America (''DFA'') of an ownership interest in Southern Belle Dairy Co., LLC (''Southern Belle''), violated Section 7 of the Clayton Act, 15 U.S.C. 18. An Amended Complaint was filed on May 6, 2004. The proposed Final Judgment, filed on October 2, 2006, requires DFA to divest its interest in Southern Belle and use its best efforts to cause its partner, the Allen Family Limited Partnership, to divest its interest in Southern Belle. Public comment was invited within the statutory 60-day comment period. Copies of the Amended Complaint, proposed Final Judgment, Competitive Impact Statement, public comments and the United States' responses to such comments and other papers are currently available for inspection in Room 200 of the Antitrust Division, Department of Justice, 325 Seventh Street, NW., Washington, DC 20530, *telephone:* (202) 514–2481 and the Office of the Clerk of the United States District Court for the Eastern District of Kentucky, 310 South Main Street, London, Kentucky 40745.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

J. Robert Kramer II,

Director of Operations.

United States District Court Eastern District of Kentucky Southern Division at London

[Civil Action No.: 6:03–206–KSF]

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States hereby files comments received from members of the public concerning the proposed Final Judgment in this civil antitrust suit and the responses by the United States to these comments. The United States and Commonwealth of Kentucky will move the Court for entry of the proposed Final Judgment after the public comments and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

I. Background

The United States and Commonwealth of Kentucky (the ''government'') filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, on April 24, 2003, alleging that the acquisition by Dairy Farmers of America, Inc. (''DFA'') of its interest in Southern Belle Dairy Co., LLC (''Southern Belle'') violated Section 7 of the Clayton Act, 15 U.S.C. 18. An Amended Complaint was filed on May 6, 2004.

The Amended Complaint alleged that the acquisition will likely substantially

lessen competition for the sale of milk to schools in one hundred school districts in eastern Kentucky and Tennessee. On August 31, 2004, the District Court granted summary judgment to DFA and Southern Belle. The government appealed, and on October 25, 2005, the Court of Appeals reversed the grant of summary judgment as to DFA and remanded the case for trial. The Court of Appeals affirmed the dismissal of Southern Belle, leaving DFA as the only defendant. *See United States* v. *Dairy Farmers of America, Inc.*, 426 F.3d 850 (6th Cir. 2005).

On October 2, 2006, the government filed a proposed Final Judgment that requires DFA to divest its interest in Southern Belle and use its best efforts to require its partner, the Allen Family Limited Partnership (''AFLP''), to divest its interest in Southern Belle. DFA proposed divesting its interest and AFLP's interest in Southern Belle to Prairie Farms Dairy, Inc. (''Prairie Farms''), and the government approved Prairie Farms as a suitable buyer of DFA's and AFLP's interests in Southern Belle.

The government and DFA have stipulated that the proposed Final Judgment may be entered after compliance with the Tunney Act. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.[1]

II. Standard of Judicial Review

Upon the publication of the public comments and this Response, the United States will have fully complied with the Tunney Act and will move for entry of the proposed Final Judgment as being ''in the public interest.'' 15 U.S.C. 16(e), as amended. In making the ''public interest'' determination, the Court should apply a deferential standard and should withhold its approval only under very limited conditions. *See, e.g., Mass. Sch. of Law at Andover, Inc.* v. *United States,* 118 F.3d 776, 783 (D.C. Cir. 1997).

Specifically, the Court should review the proposed Final Judgment in light of the violations charged in the complaint. Id. (quoting *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1462 (D.C. Cir. 1995) (''Microsoft'')).

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment ''is in the public interest.'' 15 U.S.C. 16(e). The Tunney Act states that, in making that determination, the Court may consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1).

The United States described the courts' application of the Tunney Act public interest standard in the Competitive Impact Statement filed with the Court on October 2, 2006.

III. Summary of Public Comments and Responses

During the sixty-day comment period, the United States received four comments from dairy farmers in Kentucky, one comment from a former Southern Belle employee, one comment on behalf of a cooperative of dairy farmers in Kentucky, and one anonymous comment. These comments are attached in the accompanying Appendix. After reviewing the comments, the United States continues to believe that the proposed Final Judgment is in the public interest.

A. Southeast Graded Milk Producers Association

Southeast Graded Milk Producers Association (''SEGMPA''), a cooperative of dairy farmers in Kentucky, submitted a comment which both thanked the government for challenging DFA's acquisition of its interest in Southern Belle, and expressed concerns about DFA's raw milk procurement practices. SEGMPA has been a long-time supplier of raw milk to Southern Belle. When SEGMPA tried to re-negotiate its supply contract with Southern Belle in 2006, Southern Belle decided not to renew the contract. SEGMPA then negotiated an agreement to supply raw milk to the Flav-O-Rich dairy in London, Kentucky. Flav-O-Rich is owned by National Dairy Holdings (''NDH''), which itself is 50%-owned by DFA. Shortly after the contract negotiations with Flav-O-Rich concluded, Flav-O-Rich told SEGMPA that it could not go through with the supply contract, since DFA is the raw milk supplier to NDH's dairies, including Flav-O-Rich. According to SEGMPA, this left it with no outlet for its members' raw milk other than Southern Belle. SEGMPA went back to Southern Belle, and although it was able to negotiate a new raw milk supply contract, it was on much less favorable terms than it had previously negotiated. SEGMPA is concerned that in the future it will not be allowed to compete with DFA for raw milk supply contracts at Southern Belle, and urges that the government ensure that there is competition for raw milk as well as for school milk.

SEGMPA acknowledges in its comment that these raw milk concerns are different from the harm to competition for school milk alleged in the Amended Complaint and addressed by the proposed Final Judgment. While the government brought this case to protect competition in the market for the sale of milk served by schools in Kentucky and Tennessee, SEGMPA's concerns are about a different market, *viz.* the sale of raw milk to dairy processors like Southern Belle and Flav-O-Rich. Under the Tunney Act, however, a court's public interest determination is limited to whether the government's proposed Final Judgment remedies the violations alleged in its Amended Complaint. A review of the market for raw milk, which was not at issue in this litigation, would be inappropriate because it would construct a ''hypothetical case and then evaluate the decree against that case,'' something the Tunney Act does not authorize. *Microsoft,* 56 F.3d at 1459.

B. Carl Phelps

A former Southern Belle employee, Carl Phelps, submitted a comment expressing concerns about the effect of the divestiture on the market for raw milk in Kentucky. As a Southern Belle employee, Mr. Phelps was the plant's contact with the dairy farmers that supplied Southern Belle with raw milk and the haulers that transported the milk from the farms to the Southern Belle plant in Somerset, Kentucky. When SEGMPA negotiated a milk

[1] Prairie Farms and DFA executed a purchase agreement for Southern Belle's assets on October 2, 2006. In keeping with the United States' standard practice, the proposed Final Judgment does not prohibit the completion of the divestiture before it is entered. See ABA Section of Antitrust Law, *Antitrust Law Developments* 387 (5th ed. 2002) (noting that ''[t]he Federal Trade Commission (as well as the Department of Justice) generally will permit the underlying transaction to close during the notice and comment period''). Such a prohibition could interfere with many time-sensitive deals, prevent or delay the realization of substantial efficiencies, and delay effective relief.

supply contract with Flav-O-Rich as a result of Southern Belle's decision not to renew its raw milk supply contract with SEGMPA, Mr. Phelps resigned from Southern Belle and joined Flav-O-Rich as a liaison between the plant and SEGMPA's members. Shortly after the contract negotiations with Flav-O-Rich concluded, Mr. Phelps was told that the contract between Flav-O-Rich and SEGMPA would not be finalized.

Mr. Phelps's first concern is that, in the future, Prairie Farms will not contract with SEGMPA for Southern Belle's raw milk, but instead choose to supply the plant with raw milk from its own members or DFA. This would effectively leave SEGMPA no customers for its members' raw milk, forcing SEGMPA to fold and its members to either join DFA or Prairie Farms. Mr. Phelps is concerned about these alternatives because he understands that SEGMPA's members have approached Prairie Fanns about joining that co-op, but have been turned down. If SEGMPA were to shut down, Mr. Phelps contends that DFA would be the only outlet for SEGMPA's farmer members and would be able to reduce prices paid to farmers because it would have no competition.

This concern about competition in the market for raw milk is not related to competition in the markets for school milk at issue in this case. Mr. Phelps, like SEGMPA and other commentors expressing concerns about competition in the market for the sale of raw milk, does not argue that the proposed Final Judgment is not ''within the reaches of public interest.'' Nor do they contest that because of their concerns about the market for raw milk, the divestitures required by the proposed Final Judgment will not remedy the competitive harm alleged in the Amended Complaint. Rather, Mr. Phelps and these other commentators raise competitive issues in markets separate and distinct from those relevant to this matter.

Mr. Phelps's second concern is that, despite the divestiture of Southern Belle to Prairie Farms, DFA still may be able to influence Southern Belle's behavior in the school milk markets at issue because DFA and Prairie Farms are joint venture partners in the Roberts Dairy, Hiland Dairy, and Turner Dairy. He suggests that a third party monitor Prairie Farms to ensure that its operation of Southern Belle is totally independent of DFA, and that Southern Belle will compete with dairies partially owned by DFA, such as Flav-O-Rich.

Mr. Phelps's concern that joint ventures between Prairie Farms and DFA will affect Prairie Farms' operation of Southern Belle was considered by the government when evaluating Prairie Farms as a potential purchaser of Southern Belle. The government believes that the joint ventures will not undermine the proposed relief for several reasons.

First, these joint ventures involve dairies located in completely different geographic markets than those in which Southern Belle competes for school milk contracts. The Roberts and Hiland dairies, both 50%-owned by Prairie Farms and DFA, are located in Arkansas, Iowa, Kansas, Missouri, Nebraska, and Oklahoma. In addition, Prairie Farms recently acquired a partial ownership interest in the Turner dairy, which has plants in Arkansas, Kentucky, and Tennessee, and is 20%-owned by DFA. Turner's Kentucky plant is in Fulton, on the far western edge of the state, and does not compete against Southern Belle for school milk contracts.

Second, because these joint ventures involve different markets, Prairie Farms will not have the same incentive to lessen competition between Southern Belle and Flav-O-Rich (or any other DFA-affiliated dairy) that led to the filing of this case. The government challenged DFA's acquisition of a 50% ownership interest in Southern Belle because DFA's partial ownership of both Southern Belle and Flav-O-Rich created a substantial incentive to reduce competition between those two dairies. The acquisition of Southern Belle by Prairie Farms has eliminated that common ownership between those two dairies. In the future, Prairie Farms will have a strong incentive to compete to obtain school milk contracts for its Southern Belle dairy at the expense of Flav-O-Rich. The dairies jointly owned by Prairie Farms and DFA do not compete for school milk contracts with Southern Belle, so Prairie Farms will not be able to reduce competition for school milk between Southern Belle and any of those dairies.

Third, the government evaluated and approved Prairie Farms as a buyer of Southern Belle because it has a demonstrated ability to operate dairy processors and compete for school milk contracts independent of any influence or control by DFA. Prairie Farms, as an agricultural cooperative of dairy farmers, has an economic incentive to supply its processing plants with raw milk from its members, so it is not dependent on DFA for its raw milk supply to its wholly owned processing plants. Its dairies compete for school milk contracts, and there is no evidence that it competes less effectively in geographic markets where it competes against processing plants partially owned by DFA.

Finally, the proposed Final Judgment protects against DFA's ability to exert control over Southern Belle. Section XI of the proposed Final Judgment prohibits DFA from reacquiring, directly or indirectly, any ownership interest in Southern Belle. As a result, if Prairie Farms transferred the assets of Southern Belle to one of its joint ventures with DFA, DFA would be in violation of the proposed Final Judgment. The government reviewed the terms of the proposed sale to Prairie Farms, and is confident that DFA will not retain any control over Southern Belle. If the government learned of any agreement prohibited by the proposed Final Judgment, pursuant to Section X it could inspect DFA's records and request reports from DFA regarding its compliance. Similarly, this Court retains jurisdiction under Section XII of the proposed Final Judgment to enforce the proposed Final Judgment and punish any violations. For these reasons, the government believes that Mr. Phelps's suggested modification to the proposed Final Judgment is not warranted.

C. William R. Sewell and Bill L. Guffey

William R. Sewell and Bill Guffey, two dairy farmers from Kentucky, submitted comments raising the concern that the competition for raw milk in Kentucky could be lessened if SEGMPA is not able to supply Southern Belle with raw milk. As is the case with Carl Phelps's concerns about the market for raw milk, the concern expressed by Messrs. Sewell and Guffey does not address a violation alleged in the Amended Complaint, nor does their concern question whether the proposed Final Judgment remedies the harm alleged in the Amended Complaint.

D. Bradley J. Marcum

Bradley J. Marcum, a dairy farmer from Alpha, Kentucky, submitted a comment expressing concerns about the raw milk purchasing practices for Southern Belle after its divestiture to Prairie Farms. He notes that Prairie Farms has retained many of Southern Belle's key employees, and suggests that, therefore, DFA still influences Southern Belle's decisions.

To the extent that Mr. Marcum's comment suggests that the adequacy of the divestiture of Southern Belle to Prairie Farms as a remedy to the Amended Complaint's allegations is undermined by Prairie Farms' retention of Southern Belle's employees, the government disagrees. Permitting Southern Belle's new owner to retain the plant's existing employees allows it

to maintain the plant's customer accounts and keep its operations running smoothly with minimal interruption. The continued efficient operation of the Southern Belle dairy during the transition to a new owner was the reason why Section IV.F of the proposed Final Judgment was included. This section expressly allows a purchaser of Southern Belle to retain the plant's employees. Section IV.F also requires DFA to ''not interfere with any negotiations by the Acquirer to employ any employee whose primary responsibility is the production, sale, marketing or distribution of products from the Southern Belle Dairy.'' By retaining employees who have been responsible for Southern Belle's operations, marketing, and sales, but who no longer have any connection to DFA, Southern Belle is better able to compete against Flav-O-Rich and other processing plants for school milk and other accounts.

E. Ronald Patton

Ronald Patton, a dairy farmer and past-president of SEGMPA, submitted a comment expressing concerns that other parties were not allowed to purchase DFA's interest in Southern Belle, including a local group of potential investors who wished to operate the Southern Belle plant independent of DFA or any other processing company. Mr. Patton is concerned that Prairie Farms' purchase from DFA of Southern Belle and its 2006 purchase from DFA of Turner Dairies indicates that other parties were foreclosed from bidding on Southern Belle.

As described in Section IV of the proposed Final Judgment, DFA was required to inform ''any potentially qualified purchaser making inquiry regarding a possible purchase of the [Southern Belle dairy] that such assets are being offered for sale,'' and provide information about Southern Belle to all potential purchasers. The government, pursuant to Section IX.B–E of the proposed Final Judgment, received periodic updates on the inquiries DFA received from parties interested in purchasing Southern Belle, and the status of DFA's negotiations with those interested parties. Based on these updates, the government is aware that DFA received multiple offers to buy Southern Belle.

The proposed Final Judgment does not require DFA to accept a particular offer, only that any acquirer of Southern Belle meet the conditions set out in Section IV.H(1)–(2). These provisions require Southern Belle to be sold to a purchaser who ''has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in school and fluid milk markets in Kentucky and Tennessee, * * * [and] that none of the terms of any agreement between [the purchaser] and DFA give DFA the ability to act unreasonably to raise the [purchaser's] costs, to lower the [purchaser's] efficiency, or otherwise to interfere with the ability of the [purchaser] to compete effectively.'' The government reviewed information from both DFA and Prairie Farms regarding the purchase of Southern Belle and the presence of Prairie Farms in school milk markets in Kentucky and Tennessee. As noted earlier, Prairie Farms owns and operates multiple dairy processing plants elsewhere in the country, and has the knowledge and expertise to operate the Southern Belle Dairy efficiently, including the dairy's school milk business. It also has the capacity to supply its dairies with raw milk independent of DFA, whether through its own members or through other suppliers such as SEGMPA. The purchase agreement between Prairie Farms and DFA has no terms or conditions that would adversely affect the costs, efficiencies, or ability of Southern Belle to compete effectively for school and fluid milk sales. Based on this information, the government approved Prairie Farms as a buyer of Southern Belle because it met the requirements of Section IV.H(1)–(2) of the proposed Final Judgment.

F. Anonymous

The United States received an anonymous comment expressing the opinion that DFA agreed to sell Southern Belle to Prairie Farms because the sale would somehow allow DFA to eliminate SEGMPA as a competitor for raw milk contracts, and that Prairie Farms would refund the purchase price of the Southern Belle dairy back to DFA through some type of rebate mechanism. This commentor provides a lengthy history of Southern Belle, and suggests that DFA divested Southern Belle to Prairie Farms because it negotiated a side deal with Prairie Farms to have the new owner take steps to force SEGMPA out of business. The commentor, however, did not provide any evidence of such an agreement.

This comment's concerns about the market for raw milk, like other comments discussed earlier, are not germane to the evaluation of the conduct alleged in the Amended Complaint and addressed by the proposed Final Judgment. The government has no evidence of a side agreement between Prairie Farms and DFA relating to the sale of Southern Belle. If there were credible evidence of such an agreement, the government could investigate any potential violations of the proposed Final Judgment pursuant to its inspection rights in Section X of the proposed Final Judgment, and if it believed any provisions of the proposed Final Judgment were violated, Section XII of the proposed Final Judgment allows this Court to fashion an appropriate remedy.

IV. Conclusion

After careful consideration of the public comments, the United States concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Amended Complaint and is therefore in the public interest. Accordingly, after publication of this Response in the **Federal Register** pursuant to 15 U.S.C. § 16(b) and (d), the United States will move this Court to enter the Final Judgment.

Dated: February 7, 2007.

Respectfully Submitted,

Jon B. Jacobs,
Ihan Kim
Attorneys, Litigation I Section, Antitrust Division, United States Department of Justice, City Center Building, 1401 H Street, NW., Suite 4000, Washington, DC 20530. 202–307–0001. (f) 202–307–5802. ihan.kim@usdoj.gov.

Certificate of Service

This certifies that I caused a true and correct copy of the foregoing to be served on February 7, 2007, via electronic mail and first-class mail on the following:

David A. Owen, Esq., Greenebaum Doll & McDonald, PLLC, 300 West Vine Street—Suite 1100, Lexington, KY 40507. *Telephone:* 859–231–9500. Counsel for Dairy Farmers of America, Inc.

W. Todd Miller, Esq., Baker & Miller, PLLC, 2401 Pennsylvania Avenue, NW.—Suite 300, Washington, DC 20005. *Telephone:* 202–663–7820. Counsel for Dairy Farmers of America, Inc.

R. Kenyon Meyer, Esq., Dinsmore & Shohl LLP, 1400 PNC Plaza, 500 West Jefferson Street, Louisville, KY 40202. *Telephone:* 502–540–2300. Counsel for Chicago Tribune Company.

Charles E. Shivel, Jr., Esq., Stoll, Keenon & Park, LLP, 300 West Vine Street—Suite 2100, Lexington, KY 40507. *Telephone:* 859–231–3000. Counsel for Southern Belle Dairy Co., LLC

J. Jackson Eaton, III, Esq., Gross, McGinley, LaBarre & Eaton, LLP, PO Box 4060—33 South Seventh Street,

Allentown, PA 18105. *Telephone:* 610–820–5450. Counsel for Southern Belle Dairy Co., LLC.

Maryellen B. Mynear, Esq., Assistant Attorney General, Consumer Protection Division, Office of the Kentucky Attorney General, 1024 Capital Center Drive, Suite 200. *Telephone:* 502–696–5389. Counsel for Commonwealth of Kentucky.

Ihan Kim

Appendix: Public Comments on the Proposed Final Judgment

Comment Submitted by Southeast Graded Milk Producers Association

Southeastern Graded Milk Producers Association

P. O. Box 25, Somerset, Kentucky 42502
Phone (606) 679–3504, Fax (606) 678–4696
January 9, 2007

Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW., Suite 4000
Washington, DC 20530

IN RE: United States of America, et al., vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti:

The Association wishes to express its thanks and appreciation to the Antitrust Division for its pursuit of the foregoing matter. Without that, this small association of milk producers would have been swallowed up by Dairy Farmers of America.

As I am sure you are aware, there is much more to be done to reign in the antitrust activities of Dairy Farmers of America, and we hope you will pursue that just as you did the above-styled action. About a year ago, when DFA owned 50% of the National Dairy Holdings plant in London, Kentucky, and 50% of Southern Belle Dairy in Somerset, Kentucky, we were able to work out a contract to supply milk to the NDH plant at London, Kentucky, whereby our producers received twenty (.20¢) cents per hundredweight more for their milk. DFA killed the contract. We then had no choice except Southern Belle Dairy and since there was no competition for our milk our producers lost the twenty (.20¢) cents per hundredweight. Since DFA still owns 50% of the London plant, we still have no competition for our milk.

In other words, the foregoing lawsuit provides for competition for school milk, but does not address the problem of competition in the procurement of raw milk. That competition is stifled by the exclusive contracts that DFA has to supply milk to numerous plants. It is just such a contract that shut our association out of the NDA plant at London, Kentucky, which reduced our choice of plants to one. Each independent producer or association needs at least two (2) totally independent plants to which he could market his milk. Only then can the antitrust activities be controlled.

Thanks again for what was done. Keep up the good work.

Very truly yours,

JOHN T. MANDT,

Secretary.

JTM: jlm

Comment Submitted by Carl Phelps

To: Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St. NW, Suite 4000
Washington, DC 20530

RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti,

I want to thank the DOJ's Antitrust Division for the interest you have shown regarding the ownership of Southern Belle Dairy. This is a step in the right direction but there is still more to do to ensure that the Southeastern Graded Milk Producers survive. I think a third party should be involved to make certain that Prairie Farms will not have contact with DFA because they do have joint ventures with them.

I spent 30 years working at Southern Belle as a fieldman. I came to know and care deeply for the producers and always tried to make sure whatever I did was in their best interest. When Southern Belle was being run by the Shearer family, I didn't have a problem with this goal. When Southern Belle was purchased by DFA and Bob Allen, it seemed the best interest of the producers was of little concern. To my disappointment, I was told that I was not to get any more producers. I believe this was because they didn't want Southeastern to survive. I believe they wanted to control all of the raw milk supply and to force Southeastern producers to become DFA. When it came time to renew their contract with Southeastern, the producer board was told that they had a problem renewing their contract as it was. I feel that what it all boiled down to was they didn't really want to renew their contract which would have meant they had no where to sell their milk to and so would have been forced to become DFA members. Southeastern tried to find another place to market their milk. Southeastern negotiated with Charles Hyatt at Flav-O-Rich Dairy in London, Kentucky about supplying milk to that plant. An agreement was made with National Dairy Holdings which owns Flav-O-Rich to buy Southeastern's milk.

Then, I was hired by Charles Hyatt as a fieldman for Flav-O-Rich Dairy to continue taking on producers for Southeastern and was told that I could take on all I could find to supply milk for the plant in London and a plant in Madisonville, Kentucky. I resigned from Southern Belle Dairy and was happy to do so, thinking the producers had a good deal and would be taken care of. Guess what? Flav-O-Rich Dairy is 50 percent owned by DFA. About a week after being hired, I was told the deal was off, that DFA wasn't going to furnish raw milk to the rest of their National Dairy Holdings plants if they let the Flav-O-Rich plant have Southeastern as their own raw milk supply. DFA got their way again. The producers wound up having to sign a contract that many were not happy with in order to have a place to sell their milk.

After learning that Southern Belle had been purchased by Prairie Farms, I had high hopes for the producers and the milk haulers, as many have kept in contact with me. Producers and milk haulers have called me to tell me of their fear about their future with Southern Belle. Some employees were told their jobs would be moved to Illinois; this made them very nervous about losing their jobs. Some employees were even told not to associate with certain people such as myself, making them feel this could put their job in danger.

The management at Southern Belle has known for a long time that I know the truth about their connection with DFA. Management seems to be troubled that I would try to help the producers. Since taking over Southern Belle on 10/01/06, producers and milk haulers have contacted Gary Lee, Vice President of Prairie Farms, about becoming Prairie Farms producers and they were turned down. Haulers also have talked to Gary Lee about taking on new members. Producers and haulers have been puzzled that they were not contacted about their future with the new owners, making them feel that they are of little concern.

I wonder if there might have been a deal made under the table between DFA and Prairie Farms when Southern Belle was sold to them. Perhaps, Southern Belle was a gift to Prairie Farms. Raw milk credits could be part of the deal. If this deal is approved by the DOJ, I think DFA will have it made and the SEGMPA will be put in a situation that will eventually destroy them. After all, if they were gone, DFA would be the sole supplier to the Southern Belle plant owned by Prairie Farms with joint ventures with DFA and the Flav-O-Rich plant in London, Kentucky (50 percent owned by DFA and 50 percent by National Dairy Holdings). I think DFA would probably give up something now and if the DOJ approves this, it won't be long before another plan of action will start against the Southeastern Graded Milk Producer Association. Also, with Prairie Farms owning Southern Belle and having joint ventures with DFA, if the Federal Order System is voted out or changed in any way, SEGMPA producers would be better off selling their milk to Southern Belle with an owner who is not connected to DFA because there will be no competition and DFA can potentially pay producers whatever they want to.

I hope that you will really think about what your decision will mean to the people who make up the Southeastern Graded Milk Producers Association. In my opinion, the only right way to resolve this is to make sure that whoever ends up with Southern Belle has no connection to DFA.

Thank you,

Carl Phelps,

6790 Hwy 1643, Somerset, KY 42501, 606–382–5836.

If you have any questions, please feel free to contact me.

Comment Submitted by William R. Sewell

January 15, 2007

To: Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St. NW., Suite 4000
Washington, DC 20530

RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti,

I would like to express my concern about the future operation and working relationship between Southern Belle Dairy and the Southeastern Graded Milk Producers Association.

I am in the third generation of my family as a producer of this operation. I have been told about things that have happened and directions that have been given that has caused me to ask the proper individuals to reinvestigate the situation.

The future welfare of my family depends much on this ongoing operation.

William R. Sewell,

Producer #107.

Comment Submitted by Bill L. Guffey

Guffey Farms LLC
Bill Guffey
Rt 3 Box 301
Albany, KY 42602

January 12, 2007

Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW. Suite 4000
Washington, DC 20530

IN RE: United States of America, et al Vs. Dairy Farmers of America, Inc., Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Mr. Botti:

I am writing the letter to express my thanks for initiating the Civil Action Suite against Dairy Farmers of America, Inc. by the Antitrust Division.

However, the speedy sale of DFA's percent of interest in Southern Belle Dairy to Prairie Farms has raised concerns that this may only a deploy to lessen the investigation by the Antitrust Division. I would hope that this would not be the case and the Antitrust Division would continue to investigate DFA.

Being a Dairy farmer and a former Board of Education member and chairman, I understand the real need for competition for raw milk and the need for competition on bids for school milk also. With the continuing investigation by the Antitrust division this is assured to happen.

Thanks for reading this and your work on this matter.

Respectfully yours,

Bill L. Guffey.

Comment Submitted by Bradley J. Marcum

Bradley J. Marcum
HC–71 Box 454
Alpha, KY 42603
606.387.5193

January 10, 2007

Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW. Suite 4000
Washington, DC 20530

IN RE: United States of America, et al vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti:

I personally would like to express my gratitude and appreciation to the Antitrust Division for its incomparable pursuit of the abovementioned matter. The Antitrust Division has been an asset to dairy owners, such as me.

Although the action of the Antitrust Division was beneficial in alleviating symptomatic problems that were occurring, the predominant problem remains. Dairy Farmers of America, Inc. still have an affluent influence upon decision making concerning the new plant of Prairie Farms, formally known as Southern Belle Dairy. Recently, it has been rumored that Prairie Farms have been manipulating individual producer pay price on raw milk. Some producers are receiving more than the contract allocated amount for raw milk; while others only receive a percentage of what the other producers are paid.

To the naked eye, it is difficult to understand why Prairie Farms would allow such a discrepancy between individual producers, yet when you begin to look closer, the picture becomes clear. Although the Dairy Farmers of America, Inc. were ordered to recede from the area and Southern Belle Dairy, many associates and ''key'' employees remain the same. To put it frankly, names on uniforms have changed to Prairie Farms, yet policies and business remain the same.

Thanks again for what was done. Keep up the good work.

Very truly yours,
Bradley J. Marcum.

Comment Submitted by Ronald Patton

5049 Hwy 490
East Bernstadt, KY 40729
January 12, 2007

Hon. Mark J. Botti,
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St., NW., Suite 4000
Washington, DC 20530

IN RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti,

I wish to express my gratitude to the Antitrust Division for their efforts in pursuing the above mentioned matter. Even though the sale of Southern Belle Dairy to Prairie Farms may appear to resolve the competition for school milk bids, several issues remain.

My concern is that Dairy Farmers of America and Prairie Farms have made two transactions within the past year, The DFA sales of Turner Dairies and Southern Belle. Turner Dairies also has a milk processing plant in Kentucky. DFA's hasty sale of Southern Belle to Prairie Farms raises concerns that other interested parties were not allowed to make an offer for this plant. I am knowledgeable of at least one offer that was not acted upon by DFA. The offer was from a local group of business officials who desired to see the plant operate independently of DFA and its associated partners. The independent group would have assured competition for bids for school milk and retail sales, as well as ensuring a market through which local farmers could sell raw milk rather than to the mega-coops.

It is imperative that the Antitrust Division investigate to ensure that the process under which Southern Belle Dairy was sold was fair and did not exclude other potential offers. It is my belief that the Antitrust Division has been lax regarding issues of the dairy industry, especially in area of raw milk procurement, which ultimately affects the price of school milk!

Thank you for your attention to this matter. I look forward to discussing this matter further with you.

Sincerely,

Ronald Patton,

Past President, Southeastern Graded Milk Producers Assoc.

Comment Submitted by Anonymous

To: Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St., NW., Suite 4000
Washington, DC 20530

RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

From: A VERY concerned citizen who would love to sign this comment but out of fear of being retaliated against it is probably in my best interest not to sign it.

Dear Mr. Botti,

Please consider this information before giving final approval to the Prairie Farms purchase of Southern Belle Dairy.

It seems to me that Dairy Farmer of America (DFA) and Robert Allen (Good Ole Bob) chose to sell to the entity that would serve their best interest * * * NOT the best interest of the public. I base this conclusion on the fact that at least one group that was interested was not even given the opportunity to submit a bid or make a proposal. Another interesting thing is I believe Prairie Farms would know exactly how that felt because I believe the very same thing happened to them when Suzia was forced to spin Southern Belle off in order to purchase Broughton Foods. Is it possible that Prairie Farms wasn't willing to play the DFA games at that time but for some reason they are willing to play those games now? The

game plan DFA has for the Southern Belle Dairy case, I believe, is to see the Southeastern Graded Milk Producers Association (SEGMPA) disappear. SEGMPA is a group of dairy farmers that has supplied Southern Belle for many years. It seems DFA has viewed SEGMPA as a thorn in their side for a long, long time.

You will see in the following history how DFA had played a role in going to great and expensive lengths to see that Prairie Farms did not take ownership of Southern Belle. I never could understand this because DFA and Prairie Farms had some joint ventures that Prairie Farms managed. It is my belief, and I think it could be backed up with financial information from the two organizations, that DFA should have been very happy with those joint ventures with Prairie Farms. I heard in the past that there were years that had it not been for those joint ventures with Prairie Farms, DFA would have seen red ink instead of black ink on their financials. The following history will show how DFA went to great lengths to keep Prairie Farms from owning Southern Belle yet now they seem to have pushed Southern Belle to Prairie Farms. Why? Maybe because Leonard Southwell and Roger Capps (two long-time leaders of Prairie Farms) both passed away within the last six months. Maybe they knew better than to play the DFA games. I hope you find the following history helpful and not too boring.

Southern Belle History

1951–1997: Family owned company, that family being the Ralph Shearer family. Very early on, Mr. Shearer recognized that the relationship between SEGMPA was vital to the company for two reasons.

1.) From the get go, he felt a good, close relationship with these farmers and working together with them the dairy could have a raw supply with superior quality that would give Southern Belle an edge over its competition.

2.) Then in the 60's, when the larger Co-ops became prevalent, he felt the relationship with SEGMPA became even more vital to the company. He felt these larger Co-ops would get into the processing side of the business, which they did. This along with all of the hidden charges the larger Co-ops had meant that SEGMPA would be able to supply the company at a fair price to the producers but also at a price where Southern Belle could remain competitive in the market place.

1997: Because it became more and more difficult to survive as a stand alone dairy with Dean Foods and Suzia (a relatively young company but they were giving Dean Foods a run for their money to be the largest fluid milk processor in the country), both were buying every dairy they could get their hands on. Martin Shearer had replaced his father, Ralph, as president of Southern Belle back in the 80's and Ralph Shearer passed away in the early to mid 90's. It was at this time Martin felt the best thing for the company was to join other dairies in some type of merger or sell to someone who had other plants before Dean and Suzia owned every dairy in the country. This led to the Shearer family selling the dairy to Broughton Foods in Marietta, Ohio. Broughton had a plant in Marietta and a plant in Charleston, West Virginia and would later buy a milk plant in Port Huron, Michigan and an ice cream plant in Burton, Michigan. Broughton was owned by a group of investors headed up by Marshall Reynolds of Huntington, West Virginia. Mr. Reynolds' right hand man at that time was Kirby Taylor. Kirby was also a stockholder in Broughton Foods. Martin Shearer remained as president of the Southern Belle division of Broughton Foods. Martin, following in his father's footsteps, continued the relationship with SEGMPA. He believed that relationship was good for both parties.

1998: It became known in early April that Dean and Suzia were both interested in acquiring Broughton Foods. The winner of that bidding war was Suzia. The rest of 1998 was spent by Suzia and Broughton getting DOJ approval

1999: Finally, in the spring approval to the deal was given but with one stipulation * * * that was Suzia was given six months plus a possible one month extension, it was warranted, to spin Southern Belle off. At that time the DOJ feared there would be no competition for the school milk business in parts of Kentucky and Tennessee because Suzia already owned Flav-O-Rich, a dairy located in London, Kentucky, thirty miles from the Southern Belle plant. Tracy Noll, with Suzia, who had played a role in the purchase of Broughton Foods, now was playing a role in spinning Southern Belle off. It was my understanding that Prairie Farms was interested in purchasing Southern Belle but was not given an opportunity to make a proposal. I wonder why. DFA, an investor in Suzia at the time and partner in joint ventures with Prairie Farms * * * STRANGE * * * No, I believe Suzia and DFA knew Prairie Farms would do what was best for Prairie Farms and the farmers who owned them (something DFA certainly doesn't understand) without any consideration of what was best for DFA or Suzia. The spin off was completed just as time was running out. If time had run out, DOJ had a trustee standing by to complete the spin off. Maybe it would have been best had they missed the deadline. Nevertheless, Southern Belle was purchased by a group of investors, several of which were former Broughton Foods stockholders. The group was headed up by Marshall Reynolds. Tracy Noll, for Suzia, and Kirby Taylor, for the investor group, played a significant role in the spin off. The price tag was $6,500,000., a very good deal for the investors. Martin Shearer remained on as President of the company and there were virtually no changes.

2001: Marshall Reynolds decided it might be the right time to sell the company. Leonard Southwell and Roger Capps (two long-time leaders of Prairie Farms) visited the Southern Belle plant in Somerset, Kentucky and quickly made a $13,000,000. offer for the company. This seemed to be a fair price for Prairie Farms and a very nice return for the investors. Double your money in two years * * * not bad. So it looked like Prairie Farmers would own Southern Belle. Not so fast * * * Enter Tracy Noll, no longer with Suzia, now an owner in the newly born company called National Dairy Holdings (NDH) * * * yep, the same Tracy Noll that negotiated the sale of Broughton Foods to Suzia for $80 plus million, then negotiated the spin off of Southern Belle for $6,500,000., now back on the scene and upped the offer for Southern Belle to $19,000,000. I'll bet that pissed Prairie Farmers off. You see by this time Suzia had bought Dean the number (1) and number (2) in size as far as fluid milk processors in the country. As part of the Dean-Suzia deal, DFA had to sell their stock in Suzia * * * not to worry * * * they could re-invest now and own 50 percent of the newly formed NDH, who just happened to be the recipient of the dairies the new Dean had to spin off to gain DOJ approval. How nice this was for DFA; they now had 100 percent supply agreements with many of the new Dean company dairies and were 50 percent owners in the newly formed NDH and held 100 percent supply agreements with most of the NDA plants. Sounds like a plan is coming together. By the way, if you're ever in a position to sell or buy a dairy, get Kirby Taylor, not Tracy Noll.

1.) Kirby negotiates to sell Broughton Foods to Suzia, represented by Tracy Noll for $80 plus million. Southern Belle went with the deal.

2.) Tracy Noll negotiates for Suzia to spin Southern Belle off to Kirby Taylor representing an investor group. The price: $6,500,000.

3.) Kirby Taylor negotiates for the investor group and sells Southern Belle to none other than Trace Noll, now representing NDH for $19,000,000.

Good Job Kirby!

I will have to commend Tracy Noll for having guts and a big set of you know what. Because you see * * * DOJ had required Suzia/Tracy Noll to spin off Southern Belle because they did not want the same company to own both Flav-O-Rich and Southern Belle. Guess what?? Flav-O-Rich was one of those plants spun off by the new Dean to NDH and part owner Tracy Noll and now he is about to buy Southern Belle. He must have figured because it was under the $50,000,000 threshold, DOJ couldn't stop it. Tracy Noll must have got nervous because on Friday before the Southern Belle Board was to meet to recommend the sale of NDH to stockholders, Kirby Taylor said, ''The deal to NDH has been handed off to DFA.'' If I were Prairie Farms, I would really be mad now. DFA, a partner to Prairie Farms, buys Southern Belle right out from under them. You now see what lengths DFA will go to keep Prairie Farms from having Southern Belle. On Tuesday before the Southern Belle Board meeting, enter Jerry Boss, representing DFA and Bob Allen. The next day Southern Belle voted to recommend the sale of the company to DFA. To no one's surprise, Bob Allen is going to be the managing partner for DFA. He invested $1,000,000. of his money to become a 50 percent owner in a $19,000,000. company. Good ole Bob, a perfect partner in the words of Gary Hanman (the head man of DFA). Good ole Bob must have seen $ signs, why not after walking away with $17,000,000. in a very short period of time in a deal very similar to this one and also with DFA that involved Tuscan

and Lehigh Dairies up in the northeast. Most anyone would be a perfect partner for an easy and quick $17,000,000.

After the deal was complete and DFA and good ole Bob took over Southern Belle, good ole Bob almost immediately began laying the groundwork to give the SEGMPA two wonderful options:

1.) Become a DFA producer or

2.) Go fly a kite.

It was also apparent soon after Bob took over that he needed someone to be his yes man because Martin Shearer just did not fit the bill. The yes man suddenly appeared * * * why, it's Mike Chandler right out of the sales department. Mike is the kind of guy that gives all salespeople a bad name. People say he would climb a tree to tell a lie. However, he was lacking when it came to speech because he couldn't say shit with a mouthful. Now this is where DOJ gets a well deserved Pat On The Back. Much to the surprise of DFA and good ole Bob, DOJ filed a lawsuit asking DFA to divest itself of its ownership in Southern Belle. Good ole Bob had to put the brakes on his plan. After all, it wouldn't look good if he sent Martin Shearer home and kicked the producers right between the legs, at least not right now. DFA and good ole Bob put up a good fight and finally finagled a judge into giving them a Summary Judgment. Good ole Bob must have known he was going to get it, as he sent Martin Shearer home before the Summary Judgment was made public and he put his yes man in place. When the Summary Judgment in favor of DFA and good ole Bob was made public, celebrations broke out to honor the victory over DOJ. After all, who is the DOJ that would question DFA and the perfect partner, good ole Bob.

Here is another well-deserved Pat-On The Back for DOJ. You didn't quit. DOJ filed an appeal. The judge who was tricked by DFA and good ole Bob had his decision overturned. This really made DFA and good ole Bob mad. But what could they do? * * * Give up and agree to sell it and quickly find someone to move it to that would finish the job for them. Why after going to great and expensive lengths to keep Prairie Farms from owning Southern Belle do they quickly sell it to them without even giving one group a chance to make a proposal? I know opinions are like assholes; every body has one. Here's my opinion—Whatever Prairie Farms might have given will be returned to them in some way, probably in credits toward raw milk purchases, making the price tag this time around $00. plus keep lying Mike Chandler in charge to oversee DFA's best interests of seeing SEGMPA die a slow but sure death. At last, mission accomplished for DFA.

Please do whatever it takes to see Southern Belle end up in the hands of someone who has (zero) connection to DFA. Thanks for listening.

A very concerned citizen

P.S. Something else you may need to take a look at. Remember the children and families and taxpayers you were trying to protect when you made the new Dean spin off those plants.

1.) The one in northern Alabama that needed to give Dean competition; you may not know but it's gone. Dean has North Alabama schools all to themselves now. Poor children.

2.) The one in Virginia that was supposed to give Dean competition in parts of Virginia; you may not know but it's gone. Poor children.

3.) The one in Indiana that was supposed to give Dean competition; you may not know it but it's gone. Poor children.

You might ought to watch the rest that were spun off because some of them may soon disappear as well.

Thanks again for listening.

[FR Doc. 07–709 Filed 2–21–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under 21 U.S.C. § 952(a)(2)(B) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on November 27, 2005, Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in schedule II.

The company plans to import Phenylacetone for use as a precursor in the manufacture of amphetamines only.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, *Attention:* DEA Federal Register Representative/ODL; or any being sent via express mail should be sent to DEA Headquarters, *Attention:* DEA Federal Register Representative/ ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than March 26, 2007.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR § 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in schedule I or II are, and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: February 14, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–2992 Filed 2–21–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 21, 2006 and published in the **Federal Register** on December 1, 2006, (71 FR 69591), JFC Technologies LLC., 100 West Main Street, P.O. Box 669, Bound Brook, New Jersey 08805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Meperidine intermediate-B (9233), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for production of controlled substances for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. § 823(a) and § 952(a) and determined that the registration of JFC Technologies LLC to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated JFC Technologies LLC to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical

security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. § 952(a) and § 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: February 14, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–2991 Filed 2–21–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 15, 2007.

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 Bureau of Labor Statistics (BLS), 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: Bureau of Labor Statistics.

Type of Review: Extension without change of a currently approved collection.

Title: Multiple Worksite Report and the Report of Federal Employment and Wages.

OMB Number: 1220–0134.

Form Numbers: BLS–3020 and BLS–3021.

Type of Response: Reporting.

Frequency: Quarterly.

Affected Public: Business or other for profits; Not-for-profits institutions; and Federal Government.

Estimated Number of Respondents: 128,411.

Annual Responses: 513,644.

Total Annual Burden Hours: 190,048.

Average Burden Time per Response: 22 minutes.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: States use the Multiple Worksite Report to collect employment and wages data by worksite from employers covered by State Unemployment Insurance which are engaged in multiple operations within a State. These data are used for sampling, benchmarking, and economic analysis.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–2894 Filed 2–21–07; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 15, 2007.

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: Employee Benefit Plan Claims Procedure Under ERISA.

OMB Number: 1210–0053.

Type of Response: Third party disclosure.

Affected Public: Private Sector: Business or other for-profits and Not-for-profit institutions.

Estimated Number of Respondents: 5,900,000.

Estimated Number of Annual Responses: 320,999,996.

Estimated Total Burden Hours: 529,000.

Estimated Total Annualized Capital/Startup Costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $423,051,994.

Description: Section 503 of the Employee Retirement Income Security Act of 1974 and the Department's regulations at 29 CFR 2560.503–1 require employee benefit plans to establish procedures for resolving benefit claims under the plan, including

initial claims and appeal of denied claims. The regulation requires specific information to be disclosed at different stages of the claims process. It also requires claims denial notices to be provided within specific time frames and to include specific information.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: PTE 80–83—Sale of Securities to Reduce Indebtedness of Party in Interest.

OMB Number: 1210–0064.

Type of Response: Recordkeeping.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 25.

Estimated Number of Annual Responses: 25.

Estimated Total Burden Hours: 2.

Estimated Total Annualized Capital/ Startup Costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 authorizes the Secretary of Labor ''to grant a conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions, from all or part of the restrictions imposed by section 406 and 407(a).'' In order to grant such exemptions under 408(a), however, the Secretary must determine that the exemption is administratively feasible, in the interest of the plan and its participants and beneficiaries, and protects the rights of participants and beneficiaries. To insure the exemption is not abused, that the rights of participants and beneficiaries are protected, and that compliance with exemption's conditions is taking place, the Department often requires minimal information collection pertaining to the exempted transactions.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Prohibited Transaction Class Exemption 75–1 Security Transactions with Broker-Dealers, Reporting Dealers and Banks.

OMB Number: 1210–0092.

Type of Response: Recordkeeping.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 9,752.

Estimated Number of Annual Responses: 9,750.

Estimated Total Burden Hours: 1,625.

Estimated Total Annualized Capital/ Startup Costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: This class exemption from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 permits certain banks, registered broker-dealers, and reporting dealers in government securities who are parties in interest to employee benefit plans to engage in specified kinds of securities transactions with the plans.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Petition for Finding Under Section 3(40) of ERISA.

OMB Number: 1210–0119.

Type of Response: Reporting.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 45.

Estimated Number of Annual Responses: 45.

Estimated Total Burden Hours: 0.

Estimated Total Annualized capital/ startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $120,420.

Description: The Department's regulations at 29 CFR 2570.150 et seq. provide procedures for an entity against whom state jurisdiction has been asserts to petition the Secretary to make a finding under section 3(40)(A)(i) of ERISA that the entity is established or maintained under or pursuant to one or more collective bargaining agreements. The regulations establish procedures for initiating an administrative proceeding before the Office of Administrative Law Judges (ALJs) and establish that an ALJ's decision shall constitute a finding under section 3(40)(A)(i) of ERISA. The regulations also provide for an appeal of an ALJ decision to the Secretary.

Agency: Employee Benefits Security Administration.

Type of Review: New collection (Request for a new OMB control number).

Title: HDCI 2 Survey of Group Health Plans.

OMB Number: 1210–0NEW.

Type of Response: Reporting.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 5,000.

Estimated Number of Annual Responses: 5,000.

Estimated Total Burden Hours: 417.

Estimated Total Annualized capital/ startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: EBSA exercises delegated authority under ERISA to protect workers' pensions and group health benefits and has issued regulations under Part 7, codified at 29 CFR 2590.701–1 *et seq.*, to effectuate these rights and provide guidance to affected group health plans pertaining to a number of laws applicable to group health plans, including Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Newborns' and Mothers' Health Protection Act of 1996, the Mental Health Parity Act of 1996, and the Women's Health and Cancer Rights Act of 1998. In 2001, EBSA conducted a program to increase compliance with these laws, the Health Disclosure and Clainms.

Issues: Fiscal Year 2001 Compliance Project (HDCI). EBSA is now planning to conduct a follow-up program to assess the effectiveness of its compliance assistance efforts that will involve the examination of a number and variety of group health plans that is sufficient to constitute a representative sample of existing plans from which EBSA can extrapolate compliance rates for group health plans in general. However, in order to make its assessment meaningful, EBSA must first identify ERISA-covered single-employer group health plans in two groups: (1) Plans sponsored by firms with 3–99 employees, and (2) plans sponsored by firms with 100 or more employees. EBSA intends to conduct a narrow-scope, one-time telephone survey of business firms in order to identify a representative sample of large and small group health plans sponsored by private-sector employers. The agency intends to ask each firm a limited number of questions designed to determine whether the firm sponsors a group health plan covered by Title I of ERISA and how many employees are covered under the plan.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–2895 Filed 2–21–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration (ETA)

Solicitation for Grant Application (SGA), Program Year 2006

Announcement Type: New.

Notice of availability of funds and solicitation for grant applications for Workforce Innovation in Regional Economic Development (WIRED) Initiative—Third Generation.

Funding Opportunity Number: SGA/DFA PY 06–09

Catalog of Federal Domestic Assistance Number: 17.268

DATES: The closing date for receipt of applications is April 13, 2007. A Webinar for prospective applicants will be held for this grant competition in February 2007. The date and access information for the Webinar will be posted on the U.S. Department of Labor's Employment and Training Administration (ETA) Web site at *http://www.doleta.gov.*

SUMMARY: In the 21st century global economy, talent development is a critical component in our nation's economic competitiveness. To stay ahead of global competition, we must identify strategies to further integrate workforce development, economic development, and education at the regional level—where companies, workers, researchers, entrepreneurs and governments come together to create a competitive advantage. Launched in February 2006, the Workforce Innovation in Regional Economic Development (WIRED) Initiative focuses on the role of talent development in driving regional economic competitiveness, job growth and new opportunities for American workers. The goal of WIRED is to expand employment and advancement opportunities for workers and catalyze the creation of high-skill and high-wage opportunities in regional economies. The WIRED Initiative is currently providing regions across the country with grant funding and ongoing technical assistance from ETA and a cadre of experts in order to help them achieve these goals.

To further support regions that are seeking to transform their economies and enhance their global competitiveness through talent development, ETA is announcing a new round of grants for the third generation of regions under the WIRED Initiative. The third generation is designed to fully engage local workforce investment boards in collaborative partnerships and transformational leadership within regional economies nationwide. The Department of Labor is making $65 million available for this new round of grants. This round of the WIRED Initiative will take place over the course of three years and the Department anticipates that individual grant awards will total $5 million over this period. Only Governors may apply on behalf of regions within their states or across state lines. Each Governor may submit up to two applications.

SUPPLEMENTARY INFORMATION: This solicitation provides background information on the WIRED Initiative and critical elements required of projects funded under the solicitation. It also describes the application submission requirements, the process that eligible applicants must use to apply for funds covered by this solicitation, and how grantees will be selected. This announcement consists of eight parts:

- Part I provides background information on the WIRED Initiative.
- Part II describes the size and nature of the anticipated awards.
- Part III describes the qualifications of an eligible applicant.
- Part IV provides information on the application and submission process.
- Part V explains the review process and rating criteria that will be used to evaluate applications.
- Part VI provides award administration information.
- Part VII contains ETA contact information.
- Part VIII addresses Office of Management and Budget information collection requirements.

I. Funding Opportunity Description

A. Background

The world is now witnessing one of the greatest economic transformations in history. Revolutions in technology and information have ushered in the era we know as globalization. This era is marked by tremendous advances in communications, travel, and trade, allowing individuals instant access to commerce from almost anywhere in the world. As a result, American businesses now compete not only with companies across the street, but also with companies around the globe. In the new global economy, talent development is a key factor in our nation's economic competitiveness.

Global competition is typically seen as a national challenge. In reality, regions are where companies, workers, researchers, entrepreneurs and governments come together to create a competitive advantage in the global marketplace. That advantage stems from the ability to transform new ideas and new knowledge into advanced, high quality products or services—in other words, to innovate.

Those regions that are successful in creating a competitive advantage demonstrate the ability to network ''innovation assets''—people, institutions, capital and infrastructure—to generate growth and prosperity in the region's economy. These regions—such as San Diego, California; the Research Triangle in North Carolina; and the Greater Austin region of Texas—are successful precisely because they have connected three key elements: workforce skills and lifelong learning strategies, investment and entrepreneurship strategies, and regional infrastructure and economic development strategies.

While some regions of the country have thrived as a result of globalization, others have struggled to compete. For example, some regions are seeking to transform their economies because they have been dependent on a single industry that is not faring well in the global economy and others have been negatively affected by global trade. These regions are being forced to revitalize and reinvent themselves.

B. WIRED Initiative

To facilitate the growth of a regional economy requires attention to three critical elements. These elements were identified in a groundbreaking report, Innovate America, published by the Council on Competitiveness. The first element is infrastructure. This includes not only the traditional factors such as highways, bridges, and buildings, but also 21st century factors like access to broadband and wireless networks. The second is investment, including the availability of risk capital and the conditions that encourage the use of such capital.

The third critical element is talent. A region may possess a strong infrastructure and the investment resources for success, but without the talented men and women to use those elements for economic growth, they are meaningless. Talent can also drive the other two elements because investment capital is smart money and it will follow the talent while infrastructure can be built to support a growing economy. The WIRED initiative was launched in recognition that this third key element, talent, drives prosperity. In other words, the bedrock of a nation's competitiveness is a well educated and skilled workforce.

Many regions have made considerable progress in incorporating talent and skills development into their larger economic strategies and integrating workforce development, economic development, and education efforts into a comprehensive system that is both flexible and responsive to the needs of businesses and workers. However, ETA recognizes the importance of supporting regions that need additional technical

and financial assistance to achieve these goals.

In response, ETA launched the WIRED Initiative in February 2006. The goal of the WIRED Initiative is to expand employment and advancement opportunities for American workers and catalyze the creation of high-skill and high-wage opportunities in the regional economies. ETA invested in 13 regional economies across the country—the first generation of WIRED regions—and is providing these regions with grant funding, technical assistance, access to a cadre of experts, and peer-to-peer learning opportunities.

An additional 13 regions—the second generation of WIRED regions—were invited to participate in the WIRED Initiative as ''virtual'' sites. These regions originally received small planning grants and the opportunity to be a part of the WIRED learning network. In January 2007, ETA announced that these regions would be provided with additional funding to support the strategies identified to transform their regional economies.

WIRED grantees have a unique opportunity to design and implement strategic approaches that will transform their regional economies and the systems that support those economies. In addition to financial support, ETA staff work closely with WIRED regions to provide technical assistance to support their development of innovative approaches to workforce development, economic development and education that go beyond traditional strategies in preparing workers to compete and succeed both within the United States and globally.

A key focus for WIRED regions is to implement strategies that will result in their workforce investment system becoming a key component of their region's economic development strategy. In this vision, elements of a transformed workforce system are:

- The workforce investment system operates as a talent development system; it is no longer defined as a job training system. Its goal is an educated and prepared workforce—on a U.S. or global standard.
- Workforce investment system formula funds are transformed, providing tuition assistance for post-secondary education for lifelong learning opportunities aligned with the region's talent development strategy.
- The workforce investment system no longer operates as an array of siloed programs and services.
- The workforce investment boards are structured and operate on a regional basis and are composed of regional strategic partners who drive investments, aligning spending with a regional economic vision for talent development.
- Economic and workforce development regions are aligned, and these regions adopt common and innovative policies across the workforce, education and economic development systems and structures that support talent development and the regional economy.
- The workforce investment system is agile enough to serve the innovation economy, recognizing the reality that ⅔ of all new jobs are created by small businesses.
- The workforce investment system actively collaborates with economic development, business, and education partners to gather and analyze a wide array of current and real time workforce and economic data in order to create new knowledge about regional economies and support strategic planning, routinely track economic conditions, measure outcomes, and benchmark economic competitiveness in the global marketplace.

C. Regional Approach

Economic regions do not typically correspond to geographic or political jurisdictions such as state, county, local workforce investment area, or municipal boundaries. Such boundaries do not always match labor market areas as evidenced by Philadelphia's tri-state area or the greater Kansas City area, among others. The WIRED Initiative focuses on labor market areas that are comprised of multiple jurisdictions within a state or across state borders, or non-contiguous regional economies. Factors that contribute to the formation of a region include economic interdependence, such as common industries or sectors; assets, such as human and financial capital and infrastructure; and networks, such as leadership or investor networks.

A key to success for the WIRED Initiative is the quality and strength of the regional partnership. The partnership should be a strong team composed of the organizations necessary to transform the regional economy, including workforce, civic, business, investor, education, government, entrepreneurial, and philanthropic organizations. To be able to drive economic transformation, the leaders involved in the partnership should be at the most senior level and have decision-making authority over their organization's activities and resources.

Governors are asked to submit an application on behalf of the regional partnership. State officials have a critical role to play in this effort by providing leadership and helping to facilitate an environment that is conducive to innovation. At the same time, regional leaders from a variety of fields must invest in this process and be dedicated to taking the necessary action steps.

D. Technical Assistance and Learning Opportunities

Regions in the WIRED Initiative have the opportunity to participate in a robust learning network focused on creating competitive advantages for regional economies in the global marketplace. ETA works closely with and provides technical assistance and support to regions throughout the implementation of the WIRED Initiative. Regions also have opportunities for peer-to-peer learning, most notably through WIRED Academies. The Academies are held three times per year and provide regions with opportunities to network and share their challenges and promising practices, as well as consult with experts from the workforce, education, and economic development communities; Federal departments and agencies; and the private sector. The regions also have access to an interactive Web site, the Collaborative Workspace, which facilitates the exchange of resources and information among the learning network. Additionally, ETA facilitates linkages between the WIRED regions and other key Federal agencies—such as the Departments of Commerce, Agriculture, Energy, Transportation, Interior, Defense and Education and the National Science Foundation—to further support WIRED regions in their efforts.

ETA is compiling resource tool kits, such as a regional assessment tool and an asset mapping tool, and promising practices regarding workforce and economic development strategies. These resources will be disseminated widely to the workforce investment system and economic development community, so that all regions, even those not selected to participate, will benefit from the WIRED Initiative.

II. Award Information

A. Award Amount

Each competitively selected project will be funded at approximately $5 million over a period of three years—$1 million in the first year, $2 million in the second year, and $2 million in the third year. However, this does not preclude funding decisions above or below this amount, based on the number and quality of submissions and

the availability of funds. ETA anticipates awarding a total of $65 million in third generation WIRED grants over a three-year period.

B. Use of Funds

The WIRED Initiative supports the transformation of regional economies through the development and implementation of broad, comprehensive, innovative approaches to workforce development, economic development, and education. WIRED grants will be funded with H–1B fees as authorized under Sec. 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (Pub. L. 105–277, title IV), as amended by Pub. L. 108–447 (codified at 29 U.S.C. 2916a). These funds are focused on the development of the workforce, and may be used to provide job training and related activities for workers to assist them in gaining the skills and competencies needed to obtain or upgrade employment in industries or economic sectors projected to experience significant growth. Funds may also be used to enhance the provision of job training services and information. Activities related to training may include: supporting talent development related to entrepreneurship; supporting talent development related to small business development; and purchasing equipment to train job seekers and workers for high-growth occupations. Activities to enhance training and information may include: development and implementation of model activities to build core competencies and train workers; identifying and disseminating career and skill information; developing or purchasing regional data tools or systems to deepen understanding of the regional economic landscape and labor market; and integrated regional planning such as increasing the integration of community and technical college activities with activities of businesses and the public workforce investment system to meet the training needs of business. Applicants are expected to leverage additional resources to support the transformational strategies and activities that are beyond those allowed by these funds.

C. Period of Performance

The period of performance will be 36 months from the date of execution of the grant documents. ETA may approve a request for a no-cost extension to grantees for an additional period of time based on the success of the project and other relevant factors.

III. Eligibility Information

A. Eligible Applicants

State Governors [1] are the eligible applicants. The Governor must submit an application on behalf of a specific, defined multi-county region and a regional team of public and private partners. The application must clearly identify the state entity that will serve as the grant recipient, the state entity or local workforce investment board that will serve as the project's fiscal agent, and the sub-recipient that will have responsibility for administering the project on the Governor's behalf. The grant application form should contain the information of the state agency that is serving as the grant recipient.

Given that one of the significant goals for WIRED is to fully align the public workforce investments with a regional economic growth agenda, regional partnership teams must include a senior representative of the workforce investment system within the region as the lead, or co-lead with at least one other regional partner, for the region's WIRED grant activities. Examples of senior workforce system representatives include the chair or the executive director of a local workforce investment board or a senior representative of a regional workforce consortium.

In addition to workforce investment system partners, other mandatory partners of a regional partnership team must include senior leaders from the following entities:

- Education, including K–12, community colleges, and four year institutions within the region;
- Regional business leadership; and
- Economic development at the regional/local level.

Joint applications for regions that cross state lines will be accepted. All participating Governors of multi-state regions must jointly submit and sign the transmittal letter for the application. Applications for multi-state regions must identify the state entity that will be the grant recipient, the state agency or local workforce investment board that will serve as the project's fiscal agent, and the sub-recipient with responsibility for administering the project on the Governors' behalf.

Regional economies are typically defined as geographically contiguous areas. However, a proposal that makes an innovative case for a non-contiguous regional economy will be considered. Non-contiguous areas that only share similar circumstances will not be considered.

Each Governor is permitted to submit up to two applications. Governors may not submit applications for any of the 26 first and second generation regions that have already received a WIRED grant, as specified in Attachment A. However, a small overlap between the existing WIRED regions and an applying region will be permitted.

Applicants are not allowed to receive assistance in developing their applications from organizations and individuals under contract or subcontract with ETA for activities related to the WIRED Initiative, including M.H. West & Co., Inc; The Council for Adult & Experiential Learning; The Council on Competitiveness; and New Economy Strategies.

B. Leveraged Resources

Cost sharing or matching is not required for eligibility. However, aligning resources and leveraging funding is a key component of success in the WIRED Initiative. Therefore, applicants are expected to leverage significant resources at the Federal, state and regional levels to advance their proposed transformational strategies. While the failure to offer leveraged resources as a part of an application will not preclude consideration of the application, it will place the applicant at a significant competitive disadvantage since one of the evaluation criteria, worth 10 points, evaluates the quality of the leveraged resources. Leveraged resources are cash or in-kind contributions devoted to advancing the strategies described in the applicant's proposal. The identification of existing or planned initiatives within the region that can be aligned and integrated into the WIRED efforts to transform the regional economy are also considered to be leveraged resources.

Leveraged resources could come from a variety of sources including: public sector (e.g., Federal, state or local governments); non-profit sector (e.g., community organizations, faith-based organizations, or education and training institutions); private sector (e.g., businesses or industry associations); investor community (e.g., angel networks); philanthropic community; and the economic development community. Leveraged resources should not be included on the Standard Form 424-A budget form. These resources should be discussed in the technical proposal and the budget narrative.

[1] For the purpose of this application, the definition of State Governor includes the Governor of Puerto Rico and the Mayor of the District of Columbia.

C. Other Eligibility Requirements

1. *Administrative Costs* The administrative cost limit for each project will be negotiated at the time of award.

2. *Distribution Rights* By accepting the grant, selected applicants agree to give ETA the right to use and distribute all materials developed with grant funds such as training models, curriculum and technical assistance products. Materials developed with grant resources are in the public domain; therefore, ETA has the right to use, reuse, modify, and distribute all grant-funded materials and products to any interested party, including broad distribution to the public workforce investment system via the Internet or other means.

3. *Legal Rules Pertaining to Inherently Religious Activities by Organizations that Receive Federal Financial Assistance* The government is generally prohibited from providing direct Federal financial assistance for inherently religious activities. See 29 CFR part 2, subpart D. Grants under this solicitation may not be used for religious instruction, worship, prayer, proselytizing, or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of sub-recipients.

4. *Orientation* Grant recipients and sub-recipients designated by Governors to either administer the project or serve as the fiscal agent will be required to participate in an orientation session covering grant management issues.

IV. Application and Submission Information

A. Address to Request Application Package

This announcement includes all information and forms needed to apply for this funding opportunity.

B. Content and Form of Application Submission

The proposal must consist of two separate and distinct parts, Parts I and II. Applications that fail to adhere to the instructions in this section will be considered non-responsive and may not be given further consideration.

Part I of the proposal is the Cost Proposal and must include the following three items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www.whitehouse.gov/omb/grants/sf424.pdf*). The SF–424 must clearly identify the state applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant shall be considered the representative of the applicant.
- Dun and Bradstreet (DUNS) number. All applicants for Federal grant and funding opportunities are required to have a DUNS number. See OMB Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number on the SF–424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access this Web site: *www.dnb.com/us/* or call 1–866–705–5711.
- The SF–424–A Budget Information Form (available at *http://www.whitehouse.gov/omb/grants/sf424a.pdf*). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget and leveraged resources by the activities specified in the technical proposal. Applicants may choose to identify the organizations that would receive funding for these activities, but this is not required. The narrative should also discuss precisely how the administrative costs support the project goals.

Please note that applicants that fail to provide a SF–424, SF–424–A and/or a budget narrative will be removed from consideration prior to the technical review process. Leveraged resources should not be listed on the SF–424 or SF–424–A Budget Information Form, but must be described in the budget narrative and in Part II of the proposal. The amount of Federal funding requested for the entire period of performance must be shown together on the SF–424 and SF–424–A Budget Information Form. Applicants are also encouraged, but not required, to submit OMB control number 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found at *http://www.doleta.gov/sga/forms.cfm*.

Part II of the application is the technical proposal. The technical proposal must demonstrate the applicant's capabilities to plan and implement a demonstration project under the WIRED Initiative in accordance with the selection criteria. The Technical Proposal is limited to 25 double-spaced, single-sided, 8.5-inch-by-11-inch pages with 12-point font and 1-inch margins. Any pages over the 25-page limit will not be reviewed. In addition, the applicant may provide resumes, a staffing pattern, statistical information, and related materials in attachments which may not exceed 10 pages. Letters of commitment from partners may be submitted as attachments and will not count against the allowable maximum page totals. The applicant must reference any participating entities in the text of the Technical Proposal.

Except for the discussion of leveraged resources in response to the evaluation criteria, no cost data or reference to prices should be included in the technical proposal. The following information is required as part of the technical proposal:

- A table of contents listing the application sections.
- A 2–3 page abstract summarizing the proposed project and applicant profile information including: (1) applicant name; (2) project title; (3) identification of region; (4) overview of strategies; (5) regional partnership members; and (6) requested funding level.
- A timeline outlining project activities.

Please note that the table of contents, the abstract, and the timeline are not included in the 25-page limit. Applications that do not meet these requirements will not be considered.

Applications may be submitted electronically on *www.grants.gov* or in hard-copy via U.S. mail, professional delivery service, or hand delivery. These processes are described in further detail in Section IV(3). Applicants submitting proposals in hard-copy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hard-copy are also requested, though not required, to provide an electronic copy of the proposal on CD–ROM.

C. Submission Dates and Times

The closing date for receipt of electronic and mailed applications under this announcement is April 13, 2007. Mailed applications must be received at the address below no later than 4:30 p.m. (Eastern Time) on that date, except as identified in the ''Late Applications'' paragraph below. Applications sent by e-mail, telegram, or facsimile (fax) will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Applicants may apply online at *http://www.grants.gov* by the date and time specified above. Any application received after the deadline will not be accepted. Please note that it may take

several days to complete the ''Get Started'' step to register with Grants.gov. It is strongly recommended that those submitting applications through Grants.gov immediately initiate this step in order to avoid unexpected delays that could result in the disqualification of their application. If submitted electronically through *http://www.grants.gov*, applicants should save the application document as a .doc or .pdf file.

A Webinar for prospective applicants will be held for this grant competition in February 2007. The date and access information for the Webinar will be posted on ETA's Web site at *http://www.doleta.gov.*

D. Addresses

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Ms. Laura Patton Watson, Reference SGA/DFA PY 06–09, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand-delivered proposals will be received at the above address.

E. Late Applications

Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made, was properly addressed, and: (a) was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application required to be received by the 20th of the month must be postmarked by the 15th of that month) or (b) was sent by overnight delivery service or submitted on Grants.gov to the addressee not later than one working day prior to the date specified for receipt of applications. It is highly recommended that online submissions be completed one working day prior to the date specified for receipt of applications to ensure that the applicant still has the option to submit by overnight delivery service in the event of any electronic submission problems. ''Postmarked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the package. Evidence of timely submission to an overnight delivery service must be demonstrated by equally reliable evidence created by an overnight delivery service indicating the time and place of receipt by the overnight delivery service. Failure to adhere to the above instructions will be a basis for a determination of non-responsiveness.

F. Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.''

G. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles as indicated in Part VI(2). Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal cost principles or other conditions contained in the grant.

H. Other Submission Requirements

Applications may be withdrawn by written notice or telegram (including Mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative signs a receipt for the proposal.

V. Application Review Information

A. Rating Criteria

This section identifies and describes the criteria that will be used to evaluate the proposals for the WIRED Initiative:

(1) Identification of Region (15 points)

(2) Regional Labor Market and Economic Landscape (10 points)

(3) Strength of Partnership (30 points)

(4) Strategies for Transformation (35 points)

(5) Leveraged Resources (10 points)

1. Identification of Region (15 points)

Applicants must define the region of focus in the proposal and demonstrate why the selection comprises a regional economy. Regional economies are typically defined as geographically contiguous areas. However, a proposal that makes an innovative case for a non-contiguous regional economy will be considered. Non-contiguous areas that only share similar circumstances will not be considered.

This discussion should include, but is not limited to, how the following factors contribute to the formation of the region:

- Economic interdependence (e.g., common industry or economic sectors).
- Assets (e.g., human capital, financial capital, research and development institutions, educational institutions, and infrastructure).
- Networks (e.g., leadership and investor networks). Applicants must also include a map of the region and a list of the counties and major cities in the region.

Assessment of this criterion will be based on the quality of the information presented and the extent to which the defined area represents a regional economy, as demonstrated by the applicant.

2. Regional Labor Market and Economic Landscape (10 points)

Through narrative discussion and data displays, the applicant must provide an overview of the labor market and economic landscape of the region that describes the conditions that are driving the need for transformation in the region. Discussion should include, but is not limited to, the following:

- Industries or economic sectors that are declining in the region, as well as those that are emerging or growing.
- Characteristics related to the regional labor force, such as skill and education levels, income levels, and commuting patterns.
- Indicators of impacted economic elements in the region, such as high unemployment rate, low average wages, and low levels of new job creation.
- Worker dislocations stemming from mass layoffs and/or natural disasters.
- The extent to which foreign trade has impacted the regional economy.
- Indicators of innovation such as entrepreneurial activity and small business development, investment capital, and patent data.

Assessment of this criterion will be based on the quality of the information presented and the extent of demonstrated need for regional economic transformation.

3. Strength of Partnership (30 points)

The applicant must demonstrate that the strategic partnership is a strong team of regional leaders. The partnership must be representative of the entire region and have the authority to drive a transformation strategy within the region. The partnership must include a senior representative of the workforce investment system within the region as the lead, or co-lead with at least one other regional partner, for the region's WIRED grant activities. Examples of senior workforce system representatives include the chair or the executive director of a local workforce investment

board or a senior representative of a regional workforce consortium.

In addition to workforce investment system partners, other mandatory partners of a regional partnership team must include senior leaders from the following entities:

- Education, including K–12, community colleges, and four year institutions within the region;
- Regional business leadership; and
- Economic development at the regional/local level.

Additional recommended partners include: local elected officials; the philanthropic community; other education and training providers; business organizations such as chambers of commerce; seed and venture capital organizations or individuals; investor networks; entrepreneurs; and faith and community-based organizations.

The discussion must:

- Include a comprehensive list of the strategic partners that will be included in the WIRED Initiative and articulate each partner's role.
- Include the positions and/or titles of the individuals from each of the organizations that will be involved in the regional partnership.
- Demonstrate that integration or a high level of coordination already exists between partners. If a high level of integration or coordination does not exist, then the applicant must demonstrate that it has the capacity to quickly establish these links and discuss strategies for strengthening the partnership.
- Demonstrate that the administrative entity has the capacity to lead the regional partnership in implementing the WIRED Initiative. Discussion should include, but is not limited to, the administrative entity's leadership and staff capacity and experience implementing initiatives of this caliber.

Assessment of this criterion will be based on the comprehensiveness of the partnership, the degree to which each partner plays a committed role, and the capacity of the administrative entity to lead the regional partnership.

4. Strategies for Transformation (35 points)

The applicant must describe the strategies that will be undertaken by the regional partnership and explain how these strategies will transform the regional economy and how they will support the region's overall economic vision and goals. In addition, the applicant must describe how the strategies will transform the workforce development, economic development, and education systems in the region and result in more effective ways of collaboration and networking of assets and resources. Assessment of this criterion will be based on three areas: 1) strength of the strategies; 2) identification of targeted industries and economic sectors; and 3) discussion of goals.

Strategies. Applicants must describe how the strategies will be operationalized and how they will create a lasting impact on the region and build on and transform existing initiatives. Applicants must explain how the strategies will be aligned and integrated in order to unite the region around an economic growth agenda. In addition, in describing the strategies that would be undertaken with the requested funds, the applicant must demonstrate how the strategies will:

- Address the identified workforce and economic development challenges in the region.
- Increase integration and synergy among the workforce development, economic development and education systems.
- Increase opportunities for entrepreneurship and small business development and the capacity for innovation within both new and existing businesses.
- Create connections between research and business development.
- Build upon and align with current state and local strategic plans currently in place under the Workforce Investment Act, the Department of Commerce's economic development programs, the Department of Housing and Urban Development's community development programs, and other applicable federal programs.

Targeted High Growth Industries and Economic Sectors. Applicant must describe the high growth industries and economic sectors that will be the focus of the strategies. Applicant must explain why these industries and economic sectors have been chosen, how the strategies will support the continued growth of these industries, and how supporting these industries will contribute to the growth of the regional economy.

Goals. Applicants should demonstrate a results-oriented approach to managing and operating their grant. Therefore, applicants must describe the goals for each strategy and describe how WIRED grant resources will enable the partnership to accomplish its goals. Applicants should articulate clear outcomes for each strategy.

5. Leveraged Resources (10 points)

Applicants must clearly describe any funds and resources leveraged in support of the proposed strategies and demonstrate how these funds will be used to contribute to the goals of the WIRED Initiative. Leveraged resources are cash or in-kind contributions devoted to advancing the strategies described in the applicant's proposal. Existing or planned efforts within the region that can be aligned and integrated into the WIRED Initiative to transform the regional economy may also be considered to be leveraged resources. Important elements of the explanation include:

- Which partners have contributed leveraged resources and the amount of each contribution, including an itemized description of each cash or in-kind contribution.
- The quality of the leveraged resources, including the purpose of the funds and the extent to which each contribution will be used to further the goals of the initiative.
- Evidence, such as letters of commitment, that key partners have expressed a clear commitment to provide the contribution.

Leveraged resources could come from a variety of sources including: public sector (e.g., Federal, state or local governments); non-profit sector (e.g., community organizations, faith-based organizations, or education and training institutions); private sector (e.g., businesses or industry associations); investor community (e.g., angel networks); philanthropic community; and the economic development community.

Assessment of this criterion will be based on the extent to which the application fully describes the amount, commitment, nature, and quality of leveraged resources. Applications will be scored based on the degree to which the source and use of funds is clearly explained and the extent to which leveraged resources are fully integrated into the initiative to support grant outcomes.

B. Review and Selection Process

Applications for the WIRED Initiative will be accepted commencing on the date of publication of this announcement until the closing date and time. A technical review panel will carefully evaluate applications against the rating criteria described in Part V(1), which are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, based on the Rating Criteria described in Part V(1). The panel results are advisory in nature and not binding on the Grant Officer. The Grant Officer may consider any

information that comes to his or her attention.

The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as urban, rural, and geographic balance; uniqueness and innovative aspects of the proposal; the availability of funds; and proposals that are most advantageous to the government. The government reserves the right to award grants with or without discussions or negotiations with applicants. Should a grant be awarded without negotiations, the award will be based on the applicant's signature on the SF–424, which constitutes a binding offer.

VI. Award Administrative Information

A. Award Notices

All award notifications will be posted on the ETA Web site at *http://www.doleta.gov*.

B. Administrative and National Policy Requirements—Administrative Program Requirements

All grantees will be subject to all applicable Federal laws (including provisions in appropriations law), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The applicants selected under the SGA will be subject to the following administrative standards and provisions, if applicable:

- Workforce Investment Act—20 Code of Federal Regulations (CFR) part 667.200 (General Fiscal and Administrative Rules).
- Non-Profit Organizations—2 CFR part 230 (Cost Principles, formerly Office of Management and Budget (OMB) Circular A–122) and 29 CFR part 95 (Administrative Requirements).
- Educational Institutions—2 CFR part 220 (Cost Principles, formerly OMB Circular A–21) and 29 CFR part 95 (Administrative Requirements).
- State and Local Governments—2 CFR par 225 (Cost Principles, formerly OMB circular A–87) and 29 CFR part 97 (Administrative Requirements).
- All entities must comply with 29 CFR parts 93 and 98, and where applicable, 29 CFR parts 96 and 99.
- In accordance with Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104–65 (2 U.S.C. 1611), non-profit entities incorporated under Internal Revenue Code Section 501(c)(4) that engage in lobbying activities will not be eligible for the receipt of Federal funds and grants.
- *29 CFR part 2, subpart D*—Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries.
- *29 CFR part 30*—Equal Employment Opportunity in Apprenticeship and Training.
- *29 CFR part 31*—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- *29 CFR part 32*—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
- *29 CFR part 33*—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.
- *29 CFR part 35*—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.
- *29 CFR part 36*—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.
- *29 CFR part 37*—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA).

(Note: Except as specifically provided in this notice, ETA's acceptance of a proposal and award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, the OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, then ETA's award does not provide the justification or basis to sole-source the procurement, i.e., avoid competition, unless the activity is regarded as the primary work of an official partner to the application.)

C. Reporting and Evaluation Requirements

1. Evaluation

ETA has undertaken a comprehensive evaluation of the WIRED Initiative. The evaluation is intended to: provide a thorough understanding of the implementation of WIRED strategies in the regions; learn about changes that occur in economic indicators such as job growth, average wage, tax base, reliance on public sector subsidies, and the unemployment rate; and ascertain to what extent these changes and other indicators of regional progress were influenced by WIRED activities. ETA will require that selected applicants participate in the evaluation of WIRED. Therefore, in applying for these grants, applicants agree to cooperate in this evaluation.

2. Performance Requirements

WIRED grantees are required to report outcomes for the Common Performance Measures, which measure entry into employment, retention in employment, and earnings. Additional information on ETA's Common Measures policy can be found in Training Employment Guidance Letter No. 17–05, Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues (February 17, 2006), located on the ETA Web site at *http://wdr.doleta.gov/directives/*.

3. Quarterly Financial Reports

A Quarterly Financial Status Report (SF 269) is required until such time as all funds have been expended or the grant period has expired. Quarterly financial reports are due 30 days after the end of each calendar year quarter. Grantees must use ETA's Online Electronic Reporting System.

4. Quarterly Progress Reports

The grantee must submit a quarterly progress report to the designated Federal Project Officer within 30 days after the end of each calendar year quarter that provides a detailed account of activities undertaken during that quarter. The Department may require additional data elements to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet the Department's reporting requirements.

The quarterly progress report must be in narrative form and must include:

(1) In-depth information on accomplishments including success stories, upcoming grant activities, and promising approaches and processes.

(2) Progress toward performance outcomes included in the grantee's statement of work, including updates on product, curricula, and training development.

(3) Challenges, barriers, or concerns regarding progress.

(4) Lessons learned in the areas of administration and management, implementation, partnership relationships, and other related areas.

Final Report. A draft final report must be submitted no later than 60 days prior to the expiration date of the grant. This report must summarize activities, employment outcomes, and related results, and should thoroughly document the solution approach. After responding to ETA's questions and

comments on the draft report, three copies of the final report must be submitted no later than the grant expiration date. Grantees must agree to use a designated format specified by the Department to prepare the final report.

VII. Agency Contacts

Any technical questions regarding this SGA should be faxed to Ms. Laura Patton Watson, Chief of the Division of Federal Assistance, Fax number (202) 693–2705 (not a toll-free number). You must specifically address your fax to the attention of Ms. Laura Patton Watson and should include the following information: SGA/DFA PY 06–09, a contact name, fax, and telephone number. Answers to questions will be posted on ETA's Web site at *http://www.doleta.gov* during the SGA period.

For further information contact Ms. Laura Patton Watson, Chief of the Division of Federal Assistance, at (202) 693–3961 (not a toll-free number). This announcement is also being made available on *http://www.grants.gov*.

VIII. Other Information

OMB Information Collection No. 1205–0458. Expires September 30, 2009.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, the OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503. PLEASE DO NOT RETURN YOUR COMPLETED APPLICATION TO THE OMB. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This information is being collected for the purpose of awarding a grant. The information collected through this ''Solicitation for Grant Applications'' will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential.

Signed at Washington, DC, this twelfth day of February, 2007.

Laura Patton Watson,

Grant Officer, Employment and Training Administration.

Attachment A: List of Regions Currently Receiving WIRED Grants

First Generation WIRED Regions

- Coastal Maine
- Northeast Pennsylvania
- Upstate New York
- Piedmont Triad North Carolina
- Mid-Michigan
- West Michigan
- Florida's Great Northwest
- Western Alabama and Eastern Mississippi
- North Central Indiana
- Greater Kansas City
- Denver Metro Region
- Central and Eastern Montana
- California Innovation Corridor

Second Generation WIRED Regions

- Central-Eastern Puerto Rico
- Southwestern Connecticut
- Northern New Jersey
- Delaware Valley
- Appalachian Ohio
- Southeastern Michigan
- Tennessee Valley
- Southwestern Indiana
- Southeastern Wisconsin
- Arkansas Delta
- Rio Grande Valley
- Wasatch Range
- Northern California

[FR Doc. E7–2996 Filed 2–21–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–015)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Linda B. Blackburn, Patent Counsel, Langley Research Center, Mail Code 141, Hampton, VA 23681–2199; telephone (757) 864–9260; fax (757) 864–9190.

NASA Case No. LAR–17165–1: Resin Infusion of Layered Metal/Composite Hybrid and Resulting Metal/Composite Hybrid Laminate;

NASA Case No. LAR–17235–1: Interferometric Rayleigh Scattering Measurement System;

NASA Case No. LAR–17168–1: Cylindrical Piezoelectric Fiber Composite Actuator Assemblies;

NASA Case No. LAR–17346–1: Flexible Thin Metal Film Thermal Sensing System;

NASA Case No. LAR–17307–1: Open Loop Heat Pipe Radiator Having a Free-Piston for Wiping Condensed Working Fluid;

NASA Case No. LAR–17082–1: Composite Material Having a Thermally-Reactive-Endcapped Imide Oligomer and Carbon Nanofillers;

NASA Case No. LAR–16950–1: Ferroelectric Light Control Device;

NASA Case No. LAR–17257–1: Systems and Methods for Detecting a Failure Event in a Field Programmable Gate Array;

NASA Case No. LAR–16858–1: Photogrammetric System and Method Used in the Characterization of a Structure;

NASA Case No. LAR–17268–1: Reprogrammable Field Programmable Gate Array With Integrated System for Mitigating Effects of Single Event Upsets;

NASA Case No. LAR–16886–1: Method and System for Sensing and Identifying Foreign Particles in a Gaseous Environment;

NASA Case No. LAR–16083–1: Physiological Using Interface for a Multi-User Virtual Environment;

NASA Case No. LAR–16409–1: Wet Active Chevron Nozzle for Controllable Jet Noise Reduction.

Dated: February 7, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2907 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–016)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and

Trademark Office, and are available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: James J. McGroary, Patent Counsel, Marshall Space Flight Center, Mail Code LS01, Huntsville, AL 35812; telephone (256) 544–6580; fax (256) 544–0258.

NASA Case No. MFS–32364–1: Coil System For Plasmoid Thruster;

NASA Case No. MFS–32253–1: Magnetostrictive Valve Assembly;

NASA Case No. MFS–32342–1: Nuclear Fuel Element Using Grooved Fuel Rings;

NASA Case No. MFS–31649–1: Laser Fresnel Distance Measuring System and Method;

NASA Case No. MFS–31813–1: Method of Joining Metallic and Composite Components;

NASA Case No. MFS–32307–1: Portable Runway Intersection Display and Monitoring System;

NASA Case No. MFS–32291–1: An Advanced Technology Lifecycle Analysis System;

NASA Case No. MFS–32031–1: Fiber Optic Liquid Mass Flow Sensor—Improved Prototype Design;

NASA Case No. MFS–32115–1: Gimbling-Shoulder Friction Stir Welding Tool.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2905 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–014)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The invention listed below assigned to the National Aeronautics and Space Administration, has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Randy Heald, Patent Counsel, Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899; telephone (321) 867–7214; fax (321) 867–1817.

NASA Case No. KSC–12878: Bimetallic Treatment System and Its Application for Removal and Remediation of Polychlorinated Biphenyls (PCBs); NASA Case No. KSC–12899: Emission Control System; NASA Case No. KSC–12798: Data Acquisition System.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2913 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–012)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The invention listed below is assigned to the National Aeronautics and Space Administration, is the subject of a patent application that has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Mark W. Homer, Patent Counsel, NASA Management Office—JPL, 4800 Oak Grove Drive, Mail Stop 180–200, Pasadena, CA 91109; telephone (818) 354–7770.

NASA Case No. NPO–42563–1–CU: Underwater Vehicle Propulsion and Power Generation; NASA Case No. NPO–42221–1–CU: White-Light Whispering Gallery Mode Optical Resonator System and Method; NASA Case No. NPO–41446–1–CU: Self-Configurable Radio Receiver; NASA Case No. DRC–006–005: Propulsion Controlled Aircraft Computer (PCAC); NASA Case No. DRC–006–006: Sensor-Based Management for Secured Inventories; NASA Case No. DRC 006–024: Method for Real-Time Structure Shape-Sensing.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2915 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–011)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: David Walker, Patent Counsel, Goddard Space Flight Center, Mail Code 140.1, Greenbelt, MD 20771–0001; telephone (301) 286–7351; fax (301) 286–9502.

NASA Case No. GSC–15030–1: Optical Source and Apparatus for Remote Sensing;

NASA Case No. GSC–15043–1: Systems, Methods and Apparatus for Procedure Development and Verification;

NASA Case No. GSC–14879–1: Hybrid Diversity Method Utilizing Adaptive Diversity Function;

NASA Case No. GSC–14901–1: Optical System for Inducing Focus Diversity;

NASA Case No. GSC–15056–1: Noise-Assisted Data Analysis Method, System and Program Product Therefor;

NASA Case No. GSC–15079–1: Systems, Methods and Apparatus for Generation and Verification of Policies in Autonomic Computing Systems;

NASA Case No. GSC–15080–1: Systems, Methods and Apparatus for Pattern Matching in Procedure Development and Verification;

NASA Case No. GSC–15176–1: Systems, Methods and Apparatus for Quiescence of Autonomic Systems;

NASA Case No. GSC–15179–1: Systems, Methods and Apparatus for Autonomic Safety Devices;

NASA Case No. GSC–15042–1: Device, System and Method for a Sensing Electrical Circuit;

NASA Case No. GSC–15148–1: Systems, Methods and Apparatus for Automata Learning in Generation of Scenario-Based Requirements in System Development;

NASA Case No. GSC–15177–1: Systems, Methods and Apparatus for Developing and Maintaining Evolving Systems With Software Product Lines;

NASA Case No. GSC–14562–1: Stepping Flexures;

NASA Case No. GSC–15003–1: Solid-State Laser Gain Module;

NASA Case No. GSC–15115–1: Device System and Method for Miniaturized Radiation Spectrometer;

NASA Case No. GSC–15178–1: Systems, Methods and Apparatus for Modeling, Specifying and Deploying Policies in Autonomous and Autonomic Systems Using Agent-Oriented Software Engineering;

NASA Case No. GSC–15186–1: Systems, Methods and Apparatus for Flash Drive.

NASA Case No. GSC–14927–1: Systems and Method for Delivery of Information.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2917 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–010)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Counsel, Glenn Research Center at Lewis Field, Code 500–118, Cleveland, OH 44135; telephone (216) 433–8855; fax (216) 433–6790.

NASA Case No. LEW–17642–4: Energetic Atomic and Ionic Oxygen Textured Optical Surfaces for Blood Glucose Monitoring;

NASA Case No. LEW–17975–1: Protective Coating and Hyperthermal Atomic Oxygen Texturing of Optical Fibers Used for Blood Glucose Monitoring;

NASA Case No. LEW–17877–1: Antenna Near-Field Probe Station Scanner;

NASA Case No. LEW–17825–1: Zero G Condensing Heat Exchanger With Integral Disinfection;

NASA Case No. LEW–17306–2: Thin Film Heat Flux Sensor of Improved Design Utilizing a Resistance Bridge;

NASA Case No. LEW–18042–1: Process for Preparing Polymer Reinforced Silica Aerogels.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2919 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–013)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Edward K. Fein, Patent Counsel, Johnson Space Center, Mail Code AL, Houston, TX 77058–8452; telephone (281) 483–4871; fax (281) 483–6936.

NASA Case No. MSC–23659–2: Microencapsulation System and Method;

NASA Case No. MSC–24201–1: A Description of an Improved Method for Attaching an Inflatable Shell to a Rigid Interface.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2921 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–009)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: February 21, 2007.

FOR FURTHER INFORMATION CONTACT: Robert M. Padilla, Patent Counsel, Ames Research Center, Code 202A–4, Moffett Field, CA 94035–1000; telephone (650) 604–5104; fax (650) 604–2767.

NASA Case No. ARC–15566–3: Real Time Oil Reservoir Evaluation Using Nanotechnology;

NASA Case No. ARC–15578–2: Visual Image Sensor Organ Replacement Implementation;

NASA Case No. ARC–15201–1: Toughened Uni-piece Fibrous Reinforced Oxidation-Resistant Composite (TUFROC);

NASA Case No. ARC–15890–1: Contaminated Water Treatment.

Dated: February 9, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–2923 Filed 2–21–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before March 26, 2007. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal

memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

Fax: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Food Safety and Inspection Service (N1–462–04–20, 1 item, 1 temporary item). Master files associated with an electronic information system used as a tracking and notification system for suppliers' samples found to be E. coli O157:H7 positive.

2. Department of the Army, Agency-wide (N1–AU–07–3, 4 items, 4 temporary items). Records relating to flight regulations covering aircrew training, aircraft weight and balance, and mission approval process. Included are individual aviator training records, forms, charts, weight and balance data, worksheets, memoranda and authority designations. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Defense, National Geospatial-Intelligence Agency (N1–537–03–12, 1 item, 1 temporary item). Hard copy records containing geomagnetic information used as source material.

4. Department of Energy, Bonneville Power Administration (N1–305–05–5, 8 items, 8 temporary items). Records related to the sale of generated power from Federal system resources. Included are correspondence, contract information, case files, rate information, studies, meeting notes, cost reconciliations, accounts, status reports and similar materials. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of Energy, Bonneville Power Administration (N1–305–05–6, 2 items, 2 temporary items). Records related to metering function and power billing interval data. Included are budget management documents, spreadsheets, timelines, scopes, charters, calculations, and similar materials. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of Health and Human Services, Centers for Disease Control and Prevention (N1–442–06–1, 24 items, 23 temporary items). Records of the Coordinating Office for Terrorism Preparedness and Emergency Response documenting the registration and oversight of individuals or entities possessing, using, or transferring select agents and toxins. Included are applications, reports, assessments, permits, forms, web page documentation, and correspondence. Proposed for permanent retention are recordkeeping copies of memoranda, transcripts of speeches and meetings, and correspondence created by the Office of the Director. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of Health and Human Services, Indian Health Service (N1–513–07–1, 2 items, 2 temporary items). Records accumulated by the Office of Environmental Health and Engineering documenting sanitation facilities constructed or provided. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Health and Human Services, Office of the Secretary (N1–468–06–1, 4 items, 4 temporary items). Records accumulated by the Program Support Center including forms used to register controlled substance distributors, controlled substance order forms, medical records for incapacitated dependents of Commissioned Corps Officers, and medical records of non-accepted Commissioned Corps applicants. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

9. Department of Health and Human Services, Office of the Secretary (N1–468–07–1, 1 item, 1 temporary item). Records accumulated by the Office of Preparedness and Emergency Operations including patient care forms and other medical records created by a Federal Medical Station in response to an emergency event. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

10. Department of Justice, Federal Bureau of Investigation (N1–65–06–1,

10 items, 10 temporary items). Records relating to the operations, management, and content of a web portal used to connect to other systems and share resources among multiple federal, state, and local agencies.

11. Department of Justice, Justice Management Division (N1–60–06–6, 4 items, 4 temporary items). Outputs, master files, and documentation relating to a system designed to track, throughout the forfeiture life-cycle, assets seized by Federal law enforcement agencies.

12. Department of Labor, Bureau of Labor Statistics (N1–257–06–1, 3 items, 3 temporary items). Chart books related to speeches made by the New York City Regional Commissioner and the Economic Analysis and Information Staff to regional, professional, and educational groups on topics of interest to BLS.

13. Department of Labor, Bureau of Labor Statistics (N1–257–06–2, 37 items, 35 temporary items). Inputs, master files, outputs, and program documentation associated with miscellaneous electronic systems of the Division of Administrative Services. These systems are used to support the administrative activities of the Division. Proposed for permanent retention are recordkeeping copies of emergency response plans.

14. Department of Transportation, Federal Highway Administration (N1–406–06–4, 5 items, 1 temporary item). Correspondence, directives, memoranda, reports, and other records relating to the development of a variety of administrative policies. Proposed for permanent retention are recordkeeping copies of historically significant policy files, Defense Access Roads subject files, reports of operations, and specifications for construction of roads and bridges on Federal highway projects.

15. Department of the Treasury, Bureau of the Public Debt (N1–53–06–4, 46 items, 42 temporary items). Records relating to support functions, including executive board, legal, Web site, budget, personnel, forms, history, public affairs, meeting notes, presentation, organization, consolidation, procedures, and instructions files. Proposed for permanent retention are recordkeeping copies of public affairs releases, reorganization change records, and executive studies.

16. Department of the Treasury, Bureau of the Public Debt (N1–53–06–7, 20 items, 16 temporary items). Records relating to the security auction transaction process. Proposed for permanent retention are recordkeeping copies of regulation development files, legislation development files, and historically important reports, studies, briefings, press releases, and correspondence.

17. Department of the Treasury, Internal Revenue Service (N1–58–07–1, 1 item, 1 temporary item). Completed IRS Form 6459, Return Preparer's Checklist, which is used to document potentially false income tax returns by preparers.

18. Department of the Treasury, Internal Revenue Service (N1–58–07–3, 1 item, 1 temporary item). Completed IRS Form 8655, Reporting Agent Authorization, which allows taxpayers to designate reporting agents.

19. Environmental Protection Agency, Agency-wide (N1–412–07–4, 3 items, 3 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to several record series regardless of recordkeeping medium. The records include National Contingency Plan product files, spill prevention control and countermeasure facility plans, and oil removal contingency plans. Paper recordkeeping copies of these files were previously approved for disposal.

20. Environmental Protection Agency, Agency-wide (N1–412–07–6, 2 items, 1 temporary item). This schedule authorizes the agency to apply the existing disposition instructions to record series regardless of recordkeeping medium. The records include Resource Conservation and Recovery Act permit files for hazardous waste generators, transporters and treatment, storage and disposal facilities, as well as facilities that comply with regulations without following the usual permitting process. Paper recordkeeping copies of these files were previously approved for disposal. Also included are Resource Conservation and Recovery Act hazardous waste land disposal permit files, for which paper recordkeeping copies previously were approved as permanent.

21. Environmental Protection Agency, Agency-wide (N1–412–07–35, 3 items, 3 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to a number of records series regardless of the recordkeeping medium. The records series include pesticides facilities files, pesticides imports files and pesticide producing establishment reports. Paper recordkeeping copies of these files were previously approved for disposal.

22. Environmental Protection Agency, Agency-wide (N1–412–07–36, 4 items, 4 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to a number of records series regardless of the recordkeeping medium. The records series include the administrative documents relating to issuing permits including the permit application, draft permit or notice of intent to deny, statement of basis and documentation, the environmental impact statement and comments received, public hearing transcripts and related documentation, and the final permit. Paper recordkeeping copies of these files were previously approved for disposal.

23. Federal Mediation and Conciliation Service, Agency-wide (N1–280–05–1, 5 items, 5 temporary items). Administrative files documenting routine housekeeping activities, including copies of bulletins, training aids and course materials, working papers, general correspondence, and routine reports.

24. National Archives and Records Administration, Government-wide (N1–GRS–06–2, 6 items, 6 temporary items). Records created and maintained by Federal Chief Financial Officers and their program offices. This schedule applies to these records at agency or departmental headquarters as well as those of deputies and subordinates at the bureau or field office level. Included are records documenting agency financial management, auditing, and fiscal performance and accountability.

Dated: February 12, 2007.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E7–2988 Filed 2–21–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

Public Interest Declassification Board (PIDB); Notice of Meeting

Editorial Note: FR Doc. E7–2866 was originally published at page 7776 in the issue of February 20, 2007. In that publication an incorrect version of this document was published. The corrected document is republished below in its entirety.

Pursuant to Section 1102 of the Intelligence Reform and Terrorism Prevention Act of 2004 which extended and modified the Public Interest Declassification Board (PIDB) as established by the Public Interest Declassification Act of 2000 (Pub. L. 106–567, title VII, December 27, 2000, 114 Stat. 2856), announcement is made for the following committee meeting:

Name of Committee: Public Interest Declassification Board (PIDB).

Date of Meeting: Saturday, February 24, 2007.

Time of Meeting: 9 a.m. to 12 p.m.

Place of Meeting: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Room 105, Washington, DC 20408.

Purpose: To discuss declassification program issues.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than Monday, February 19, 2007. ISOO will provide additional instructions for gaining access to the location of the meeting.

FOR FURTHER INFORMATION CONTACT: Lee H. Morrison, PIDB Staff, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, NW., Washington, DC 20408, telephone number (202) 357–5039.

Dated: February 12, 2007.

J. William Leonard,

Director, Information Security Oversight Office.

[FR Doc. E7–2866 Filed 2–16–07; 8:45 am]

Editorial Note: FR Doc. E7–2866 was originally published at page 7776 in the issue of February 20, 2007. In that publication an incorrect version of this document was published. The corrected document is republished in its entirety.

[FR Doc. R7–2866 Filed 2–21–07; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL SCIENCE FOUNDATION

National Science Board Commission on 21st Century Education in Science, Technology, Engineering, and Mathematics (29127); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Board announces the following meeting:

Date and Time: Thursday, March 8, 2007, 11:30 a.m.–1 p.m. EST (teleconference meeting).

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia. Room 1235 will be available to the public to listen to this teleconference meeting.

Type of Meeting: Open.

Contact Person: Dr. Elizabeth Strickland, Commission Executive Secretary, National Science Board Office, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: 703–292–4527. E-mail: *estrickl@nsf.gov*.

Purpose of Meeting: To discuss draft report.

Agenda: Discussion of draft report for submission to the National Science Board.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–2967 Filed 2–21–07; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov*. This information may also be requested by telephoning, 703/292–8182.

Dated: February 15, 2007.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–2968 Filed 2–21–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 7, 2007, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, March 7, 2007, 8:30 a.m.–9:45 a.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: February 12, 2007.

Cayetano Santos,

Acting Branch Chief, ACRS.

[FR Doc. E7–3033 Filed 2–21–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Future Plant Designs; Notice of Meeting

The ACRS Subcommittee on Future Plant Designs will hold a meeting on March 7, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, March 7, 2007—10 a.m. Until the Conclusion of Business

The Subcommittee will review the NRC staff's work on technology neutral licensing framework (*i.e.*, Working Draft NUREG–1860) with a focus on ensuring the value of such an approach versus the development of a licensing framework for specific designs, such as a high temperature gas cooled reactor or a liquid metal cooled reactor (reference the Commission's November 8, 2006, Staff Requirements Memorandum to Dr. Larkins). During the briefing, the Committee will also explore with the NRC staff the pros and cons of developing a licensing framework for specific designs. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. David C. Fischer (telephone 301–415–6889) between 7:30 a.m. and 5 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: February 12, 2007.

Cayetano Santos,

Acting Branch Chief, ACRS.

[FR Doc. E7–3035 Filed 2–21–07; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Regulatory Commission.

TIME AND DATE: Thursday, February 22, 2007 at 2 p.m.

PLACE: Commission conference room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel matters—selection of director of Public Affairs and Congressional Relations.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001, 202–789–6818.

Dated: February 16, 2007

Steven W. Williams

Secretary.

[FR Doc. 07–810 Filed 2–16–07; 4:21 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55293; File No. SR–NYSE–2006–120]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Regarding the Proposed Combination Between NYSE Group, Inc. and Euronext N.V.

February 14, 2007.

I. Introduction

On December 29, 2006, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding the proposed business combination (''Combination'') between NYSE Group, Inc. (''NYSE Group'') and Euronext N.V. (''Euronext''). The proposed rule change was published for comment in the **Federal Register** on January 8, 2007.[3] The Commission has received two comments on the proposal.[4] The Exchange filed a response to comments on February 14, 2007.[5]

On February 13, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[6] This order approves the proposed rule change, grants accelerated approval to Amendment No. 1, and solicits comments from interested persons on Amendment No. 1.

The Commission has reviewed carefully the proposed rule change, the comment letters, and the NYSE Response to Comments, and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b) of the Exchange Act,[8] which, among other things, requires a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Exchange Act and to enforce compliance by its members and persons associated with its members with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the exchange, and assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. Section 6(b) of the Exchange Act [9] also requires that the rules of the exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55026 (December 29, 2006), 72 FR 814 (''Notice'').

[4] *See* letter from Andrew Rothlein, to Nancy Morris, Secretary, Commission, dated January 17, 2007 (''OTR Investors Letter''); and letter from Professor J. Robert Brown, Jr., University of Denver Sturm College of Law, to Nancy Morris, Secretary, Commission, received by the Commission, February 13, 2007 (''Brown Letter'').

[5] *See* letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy M. Morris, Secretary, Commission, dated February 14, 2007 (''NYSE Response to Comments'').

[6] *See* Partial Amendment dated February 13, 2007 (''Amendment No. 1''). The text of Amendment No. 1 and Exhibits 5C, 5D, 5F, 5G, 5H, 5I, 5J, and 5M, which set forth certain governing documents as proposed to be amended, are available on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*), at the Commission's Public Reference Room, at the NYSE, and on the NYSE's Web site (*http://www.nyse.com*).

[7] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b).

[9] *Id.*

A. Accelerated Approval of Amendment No. 1

As set forth below, the Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after publishing notice of Amendment No. 1 in the **Federal Register** pursuant to Section 19(b)(2) of the Exchange Act.[10]

In Amendment No. 1, NYSE made changes to the Purpose Section of Form 19b–4 to (1) provide an explanation of the purpose of the proposed change from the current independence policy of NYSE Group to no longer provide as a categorical matter that a person fails to be independent if he or she is a director of an affiliate of a member organization; (2) specify that the Exchange has proposed to make a change to the ownership limitation in the NYSE Group Certificate of Incorporation to match the voting limitation, and add that the board of directors must determine that share ownership in excess of the concentration limitation will not impair the ability of NYSE Group to discharge its responsibilities under the Exchange Act and the rules and regulations thereunder; (3) clarify the process for nominating directors for the NYSE Euronext (''NYSE Euronext'') board of directors; (4) clarify that it is requesting that the Commission allow NYSE Euronext alone to wholly own and vote all of the outstanding common stock of NYSE Group; and (5) clarify that the organizational documents of the Exchange, NYSE Market, Inc. (''NYSE Market''), and NYSE Regulation, Inc. (''NYSE Regulation'') provide that any person not meeting the board qualifications in the relevant organizational documents will not be qualified to serve, and therefore will not be eligible to serve as a director. The Exchange made a corresponding clarifying change to the proposed Second Amended and Restated Operating Agreement of the Exchange (''proposed NYSE Operating Agreement'') and the proposed Amended and Restated Bylaws of NYSE Market (''proposed NYSE Market Bylaws''). Additionally, the Exchange made a change to the proposed Second Amended and Restated Bylaws of NYSE Regulation (''proposed NYSE Regulation Bylaws'') to add that any person who is not elected or appointed in accordance with the qualifications set forth in Section 1(A) of Article III of the proposed NYSE Regulation Bylaws shall not be qualified to serve as a director and therefore shall not be elected to serve as a director. This proposed change was described in the Notice,[11] but was inadvertently omitted from the proposed NYSE Regulation Bylaws. The Exchange also made technical revisions to proposed Article VII, Section 2 of the proposed Amended and Restated Certificate of Incorporation of NYSE Group (''proposed NYSE Group Certificate of Incorporation'') relating to quorum requirements for each meeting of stockholders.[12] The Exchange also is amending the Trust Agreement (as defined below) to specify that the shares of Archipelago Holdings, Inc. (''Archipelago'') may also be held directly by the Trust (as defined below). These changes are necessary to clarify the proposal. The Commission finds good cause to accelerate approval of these changes prior to the thirtieth day after publication in the **Federal Register** because they clarify the Exchange's rules, which should facilitate the Exchange's compliance with its rules and the Commission's ability to ensure compliance with such rules, and assist members and investors in understanding the application and scope of the rules.

In addition, the Exchange made certain clarifying, conforming, technical, non-material, and non-substantive changes to the Purpose Section of Form 19b-4, the Independence Policy of the NYSE Euronext Board of Directors (''Independence Policy''), the proposed NYSE Group Certificate of Incorporation, the proposed Second Amended and Restated Certificate of Incorporation of NYSE Market (''proposed NYSE Market Certificate of Incorporation''), the proposed Restated Certificate of Incorporation of NYSE Regulation [13] (''proposed NYSE Regulation Certificate of Incorporation''), and the Trust Agreement, which raise no new or novel issues. These changes are non-substantive and technical in nature and are necessary to reflect the changes from the current rules of the Exchange and clarify the proposal. The Commission finds good cause exists to accelerate approval of these changes prior to the thirtieth day after publication in the **Federal Register** because they clarify the Exchange's rules, which should facilitate the Exchange's compliance with its rules, the Commission's ability to ensure compliance with such rules, and assist members and investors in understanding the application and scope of the rules.

The Commission finds that the changes proposed in Amendment No. 1 are consistent with the Exchange Act and therefore finds good cause to accelerate approval of Amendment No. 1, pursuant to Section 19(b)(2) of the Exchange Act.[14]

B. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 is consistent with the Exchange 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–NYSE–2006–120 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–2006–120. 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 NYSE. All

[10] 15 U.S.C. 78s(b)(2). Pursuant to Section 19(b)(2) of the Exchange Act, the Commission may not approve any proposed rule change, or amendment thereto, prior to the thirtieth day after the date of publication of the notice thereof, unless the Commission finds good cause for so doing.

[11] *See* Notice, *supra* note 3, at 831.

[12] In the Notice, the Exchange mistakenly showed proposed deletions to the current quorum requirements. The Exchange is not proposing to change the quorum requirements that exist in the current NYSE Group Certificate of Incorporation.

[13] In Amendment No. 1, the Exchange proposed to change the name of this document to conform to New York State law. *See* Amendment No. 1, *supra* note 6.

[14] 15 U.S.C. 78s(b)(2).

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 Amendment No. 1 of File Number SR–NYSE–2006–120 and should be submitted on or before March 15, 2007.

II. Discussion

The Exchange has submitted the proposed rule change in connection with the Combination of NYSE Group with Euronext. As a result of the Combination, the businesses of NYSE Group (including the businesses of the Exchange and NYSE Arca, Inc. (a Delaware corporation, registered national securities exchange and self-regulatory organization (''NYSE Arca'')), and Euronext will be held under a single, publicly traded holding company named NYSE Euronext, a Delaware corporation. Following the Combination, each of NYSE Group and Euronext will be a separate subsidiary of NYSE Euronext, and their respective businesses and assets will continue to be held as they are currently held (subject to any post-closing corporate reorganization of Euronext). The proposed rule change is necessary to effectuate the consummation of the Combination and will not be operative until the consummation of the Combination.

A. Corporate Structure

After the Combination, the Exchange will remain a wholly owned subsidiary of NYSE Group. NYSE Market, a Delaware corporation, will remain a wholly owned subsidiary of the Exchange and conduct the Exchange's business. NYSE Regulation, a New York Type A not-for-profit corporation, will remain a wholly owned subsidiary of the Exchange, and continue to perform the regulatory responsibilities for the Exchange pursuant to a delegation agreement with the Exchange and many of the regulatory functions of NYSE Arca pursuant to a services agreement with NYSE Arca.

Archipelago, a Delaware corporation, will remain a wholly owned subsidiary of NYSE Group. NYSE Arca Holdings, Inc., a Delaware corporation (''NYSE Arca Holdings''), and NYSE Arca L.L.C., a Delaware limited liability company (''NYSE Arca LLC''), will remain wholly owned subsidiaries of Archipelago. NYSE Arca will remain a wholly owned subsidiary of NYSE Arca Holdings, and NYSE Arca Equities, Inc. (''NYSE Arca Equities''), a Delaware corporation formerly known as PCX Equities, Inc., will remain a wholly owned subsidiary of NYSE Arca. NYSE Arca will continue to maintain its status as a registered national securities exchange and self-regulatory organization. Archipelago's businesses and assets will continue to be held by it and its subsidiaries. Pursuant to a regulatory services agreement, NYSE Regulation will continue to perform many of the regulatory functions of NYSE Arca. The governing documents of Archipelago will remain unchanged other than amendments to the Certificate of Incorporation of Archipelago to allow the Trust (as defined below) to exceed the voting limitation and ownership concentration limitation as provided for in the Trust Agreement.[15]

The Exchange represents that the Combination will have no effect on the ability of any party to trade securities on NYSE Market, NYSE Arca, or NYSE Arca Equities. Euronext and its subsidiaries will continue to operate their business and operations in substantially the same manner as they are conducted currently, with any changes subject to the approval of the European Regulators to the extent required.

A core aspect of the structure of the Combination is local regulation of the marketplace, members, and issuers. Therefore, securities exchanges, members, and issuers of NYSE Group and Euronext will continue to be regulated in the same manner as they are currently regulated. The Commission notes that this conclusion (*i.e.*, that securities exchanges, members, and issuers of NYSE Group and Euronext will continue to be regulated in the same manner as they are currently regulated) is based on the structure of the Combination as described in this proposal.

1. NYSE Euronext

Following the Combination, NYSE Euronext will be a for-profit, publicly traded stock corporation and will act as a holding company for the businesses of the NYSE Group and Euronext. NYSE Euronext will own all of the equity interests in NYSE Group and its subsidiaries, including the Exchange and NYSE Arca, and a majority (if not all) of the equity interests in Euronext and its respective subsidiaries. Section 19(b) of the Exchange Act and Rule 19b–4 thereunder require a self-regulatory organization (''SRO'') to file proposed rule changes with the Commission. Although NYSE Euronext is not an SRO, certain provisions of its proposed Amended and Restated Certificate of Incorporation (''proposed NYSE Euronext Certificate of Incorporation'') and proposed Amended and Restated Bylaws (''proposed NYSE Euronext Bylaws'') are rules of an exchange[16] if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 under the Exchange Act, of the exchange, and must be filed with the Commission pursuant to Section 19(b)(4) of the Exchange Act and Rule 19b–4 thereunder. Accordingly, the Exchange has filed the proposed NYSE Euronext Certificate of Incorporation and the proposed NYSE Euronext Bylaws with the Commission.

a. Board of Directors

Because directors of NYSE Euronext will also serve on the boards of the Exchange, NYSE Market, and NYSE Regulation, the composition of, and selection process for, the NYSE Euronext's board of directors is described below. It is currently contemplated that immediately after the Combination, the NYSE Euronext board of directors will consist of twenty-two directors. The initial NYSE Euronext board of directors will have an equal number of U.S. Persons[17] and European

[15] These amendments are the subject of a proposed rule change filed by NYSE Arca, which proposed rule change the Commission is approving today. *See* Securities Exchange Act Release No. 55294 (February 14, 2007) (approval order). *See also* Securities Exchange Act Release No. 55109 (January 16, 2007), 72 FR 2578 (January 19, 2007) (notice of proposed rule change of NYSE Arca). The Combination involves certain modifications to the organizational documents of NYSE Group and of NYSE Euronext, which upon consummation of the Combination will be the new indirect parent company of NYSE Arca. The organizational documents and independence policies of NYSE Group and NYSE Euronext and the Trust Agreement constitute rules of NYSE Arca. The resolutions of the board of directors of NYSE Group are also rules of NYSE Arca requiring Commission approval. Accordingly, NYSE Arca has submitted a proposed rule change to reflect the rule changes to be implemented in connection with the Combination.

[16] *See* Section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27). If NYSE Euronext decides to change its Certificate of Incorporation or Bylaws, NYSE Euronext must submit such change to the board of directors of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities, and if any or all of such board of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the Commission pursuant to Section 19 of the Exchange Act and the rules thereunder, such change shall not be effective until filed with or filed with and approved by the Commission, as applicable. *See* proposed NYSE Euronext Certificate of Incorporation, Article X and proposed NYSE Euronext Bylaws, Article X, Section 10.10(C).

[17] A ''U.S. Person'' shall mean, as of the date of his or her most recent election or appointment as a director, any person whose domicile as of such date is and for the immediately preceding 24

Continued

Persons.[18] Eleven directors will be the directors of NYSE Group as of immediately prior to the consummation of the Combination (including the chief executive officer and chairman of the board of NYSE Group). Nine directors will be members of the supervisory board of Euronext [19] as of immediately prior to the consummation of the Combination (including the chairman of the Euronext supervisory board). One director will be the chief executive officer of Euronext as of immediately prior to the consummation of the Combination, and the remaining director will be a European Person approved by both the NYSE Group board of directors and the Euronext supervisory board. The term of the initial directors of NYSE Euronext will end with the first annual meeting of stockholders to be held by NYSE Euronext, at which meeting the existing directors of NYSE Euronext will be nominated as directors of NYSE Euronext by the nominating and governance committee of the NYSE Euronext board of directors. Thereafter, the directors elected will serve one-year terms.

Beginning with the first annual meeting of stockholders,[20] nominees to the NYSE Euronext board of directors will be nominated by the nominating and governance committee of the NYSE Euronext board of directors, which committee shall be comprised of an equal number of European Persons and U.S. Persons. The proposed NYSE Euronext Bylaws provide that in any election of directors, the nominees who shall be elected to the NYSE Euronext board of directors shall be nominees who receive the highest number of votes such that, immediately after such election: (1) U.S. Persons as of such election shall constitute at least half of, but no more than the smallest number of directors, that will constitute a majority of the directors on the NYSE Euronext board of directors; and (2) European Persons as of such election shall constitute the remainder of the directors on the NYSE Euronext board of directors.[21]

The proposed NYSE Euronext Bylaws also provide that either the chairman of the board shall be a U.S. Person and the chief executive officer shall be a European Person, or the chairman of the board shall be a European Person and the chief executive officer shall be a U.S. Person.[22] The chief executive officer and deputy chief executive officer may be, but are not required to be, members of the board of directors of NYSE Euronext.

Each member of the NYSE Euronext board of directors (other than the chief executive officer and deputy chief executive officer of NYSE Euronext if they are members of the board of directors) must satisfy the independence requirements set forth in the Independence Policy, as amended from time to time.[23]

The NYSE Euronext board of directors may create one or more committees. It is expected that upon consummation of the Combination, the NYSE Euronext board of directors will have an audit committee, a human resource and compensation committee, and a nominating and governance committee. Each of the audit committee, human resource and compensation committee, and nominating and governance committee of the NYSE Euronext board of directors will consist solely of directors meeting the independence requirements of NYSE Euronext. These committees also will perform relevant functions for NYSE Group, the Exchange, NYSE Market, NYSE Regulation, Archipelago, NYSE Arca, and NYSE Arca Equities, as well as other subsidiaries of NYSE Euronext, except that the board of directors of NYSE Regulation will continue to have its own compensation committee and nominating and governance committee.

b. Voting and Ownership Limitations; Changes in Control of the Exchange

The proposed NYSE Euronext Certificate of Incorporation includes restrictions on the ability to vote and own shares of stock of NYSE Euronext. Under the proposed NYSE Euronext Certificate of Incorporation, no person (either alone or together with its related persons) [24] will be entitled to vote or cause the voting of shares of stock of NYSE Euronext beneficially owned by such person or its related persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than 10% of the then outstanding votes entitled to be cast on such matter. No person (either alone or together with its related persons) may acquire the ability to vote more than 10% of the then outstanding votes entitled to be cast on any such matter by virtue of agreements or arrangements entered into with other persons not to vote shares of NYSE Euronext's outstanding capital stock. NYSE Euronext shall disregard any such votes purported to be cast in excess of these limitations.[25]

In addition, no person (either alone or together with its related persons) may at any time beneficially own shares of stock of NYSE Euronext representing in the aggregate more than 20% of the then outstanding votes entitled to be cast on any matter.[26] In the event that a person, either alone or together with its related persons, beneficially owns shares of stock of NYSE Euronext in excess of the 20% threshold, such person and its related persons will be obligated to sell promptly, and NYSE Euronext will be obligated to purchase promptly, to the extent that funds are legally available for such purchase, that number of shares necessary to reduce the ownership level of such person and its related persons to below the permitted threshold, after taking into account that such repurchased shares will become treasury shares and will no longer be deemed to be outstanding.[27]

months shall have been the United States. *See* proposed NYSE Euronext Bylaws, Article III, Section 3.2(A).

[18] A ''European Person'' shall mean, as of the date of his or her most recent election or appointment as a director, any person whose domicile as of such date is and for the immediately preceding 24 months shall have been a country in Europe. *See* proposed NYSE Euronext Bylaws, Article III, Section 3.2(A).

[19] The supervisory board of a Dutch company such as Euronext, is the functional equivalent of a board of directors of a U.S. company but is not permitted to include members of management.

[20] See Amendment No. 1, supra note 6.

[21] *See* proposed NYSE Euronext Bylaws, Article III, Section 3.2(A).

[22] *See* proposed NYSE Euronext Bylaws, Article III, Section 3.3.

[23] The chief executive officer and deputy chief executive officer, if they are members of the board of directors, will be recused from any act of the board of directors, whether it is acting as the board of directors or as a committee of the board, with respect to any act of any board committee that is required to be comprised solely of independent directors. *See* proposed NYSE Euronext Bylaws, Article III, Section 3.4. To clarify and continue NYSE Group board's current practice of soliciting the input of NYSE Group management for certain board and committee matters, the Exchange proposes to use the word ''acts'' instead of the word ''deliberations'' and ''acts'' instead of the word ''activities'' in the proposed NYSE Euronext Bylaws (*See* Amendment No. 1, *supra* note 6), each of which are currently used in the Amended and Restated Bylaws of NYSE Group (''current NYSE Group Bylaws'') but will be deleted as part of the proposed changes to the Amended and Restated Certificate of Incorporation of NYSE Group (''current NYSE Group Certificate of Incorporation''). (*See* Amendment No. 1, *supra* note 6.) This same clarification to board practice will also be made to the Bylaws of NYSE Market (''current NYSE Market Bylaws'') and the Amended and Restated Bylaws of NYSE Regulation (''current NYSE Regulation Bylaws'').

[24] *See* proposed NYSE Euronext Certificate of Incorporation, Article V, Section 1(L) and note 19 of the Notice for the definition of ''related person.''

[25] *See* proposed NYSE Euronext Certificate of Incorporation, Article V, Section 1(A).

[26] *See* proposed NYSE Euronext Certificate of Incorporation, Article V, Section 2(A).

[27] *See* proposed NYSE Euronext Certificate of Incorporation, Article V, Section 2(D).

NYSE also has proposed to permit the NYSE Euronext board of directors to require any stockholder that the NYSE Euronext board of directors reasonably believes to be subject to the voting or ownership limitations summarized above, and any person (either alone or together with its related persons) that at any time beneficially owns 5% or more of NYSE Euronext's outstanding capital stock (which ownership has not been reported to NYSE Euronext), to provide to NYSE Euronext information regarding such ownership upon the request of the NYSE Euronext board of directors.[28] This requirement will allow NYSE Euronext to monitor potential changes in control to ensure that none of the limits are reached.

The NYSE Euronext board of directors may waive the provisions regarding voting and ownership limits, subject to a determination by the NYSE Euronext board of directors that the exercise of such voting rights (or the entering into of a voting agreement) or ownership, as applicable:

- Will not impair the ability of any of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca LLC, NYSE Arca, and NYSE Arca Equities (each a ''U.S. Regulated Subsidiary'' and together, ''U.S. Regulated Subsidiaries''), NYSE Euronext or NYSE Group to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder;
- Will not impair the ability of any of the European Market Subsidiaries or NYSE Euronext or Euronext to discharge their respective responsibilities under the European Exchange Regulations;[29]
- Is otherwise in the best interest of NYSE Euronext, its stockholders, the U.S. Regulated Subsidiaries and the European Market Subsidiaries; and
- Will not impair the Commission's ability to enforce the Exchange Act or the European Regulators' ability to enforce the European Exchange Regulations.

Such resolution expressly permitting such voting or ownership must be filed with and approved by the Commission under Section 19 of the Exchange Act[30] and filed with and approved by each European Regulator having appropriate jurisdiction and authority.

In addition, for so long as NYSE Euronext directly or indirectly controls the Exchange or NYSE Market, the NYSE Euronext board of directors cannot waive the voting and ownership limits above the 20% threshold for any person if such person or its related persons is a ''member'' or ''member organization'' of the Exchange (as defined in Exchange Rules). In addition, for so long as NYSE Euronext directly or indirectly controls NYSE Arca, NYSE Arca Equities, or any facility of NYSE Arca, the NYSE Euronext board of directors cannot waive the voting and ownership limits above the 20% threshold if such person or its related persons is an ETP Holder of NYSE Arca Equities, or an OTP Holder or an OTP Firm of NYSE Arca.[31] Further, the NYSE Euronext board of directors also cannot waive the voting and ownership limits above the 20% threshold if such person or its related persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act) (a ''U.S. Disqualified Person'') or has been determined by a European Regulator to be in violation of laws or regulations adopted in accordance with the European Directive on Markets in Financial Instruments applicable to any European Market Subsidiary requiring such person to act fairly, honestly and professionally (a ''European Disqualified Person'').

Members that trade on an exchange traditionally have ownership interests in such exchange. As the Commission has noted in the past, however, a member's interest in an exchange could become so large as to cast doubt on whether the exchange can fairly and objectively exercise its self-regulatory responsibilities with respect to that member.[32] A member that is a controlling shareholder of an exchange might be tempted to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and surveil the member's conduct or diligently enforce its rules and the federal securities laws with respect to conduct by the member that violates such provisions.

The Commission finds the ownership and voting restrictions in the proposed NYSE Euronext Certificate of Incorporation are consistent with the Exchange Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission, the Exchange, or its subsidiaries to effectively carry out their regulatory oversight responsibilities under the Exchange Act.

2. NYSE Group

Following the Combination, NYSE Group will merge with a wholly owned subsidiary of NYSE Euronext and the surviving corporation will be a wholly owned subsidiary of NYSE Euronext.[33] Section 19(b) of the Exchange Act and Rule 19b–4 thereunder require an SRO to file proposed rule changes with the Commission. Although NYSE Group is not an SRO, certain provisions of the current NYSE Group Certificate of Incorporation and current NYSE Group Bylaws are rules of an exchange[34] if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 of the Exchange Act, of the exchange,

[28] *See* proposed NYSE Euronext Certificate of Incorporation, Article V, Section 4.

[29] *See* proposed NYSE Euronext Bylaws, Article VII, Section 7.3(A), (B), and (E) and note 23 of the Notice for the definitions of ''European Exchange Regulations,'' ''European Market Subsidiary,'' and ''Euronext College of Regulators.''

[30] 15 U.S.C. 78s.

[31] ETP Holder is defined in the NYSE Arca Equities rules of NYSE Arca. OTP Holder and OTP Firm are defined in the rules of NYSE Arca.

[32] *See* Securities Exchange Act Release Nos. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving merger of New York Stock Exchange, Inc. and Archipelago, and demutualization of New York Stock Exchange, Inc. (''NYSE Inc.—Archipelago Merger Order'')); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131); 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26); 49718 (May 17, 2004), 69 FR 29611 (May 24, 2004) (SR–PCX–2004–08); 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73); and 49067 (January 13, 2004), 69 FR 2761 (January 20, 2004) (SR–BSE–2003–19).

[33] NYSE proposes to amend certain provisions of NYSE Group's organizational documents to reflect that, after the Combination, NYSE Group will be an intermediate holding company. The number of authorized shares of NYSE Group will be decreased. Provisions requiring a supermajority vote of shareholders to amend or repeal certain sections of the NYSE Group certificate of incorporation will be deleted. Also, provisions prohibiting NYSE Group shareholders from calling shareholder meetings, taking shareholder action by written consent and postponing shareholder meetings will be deleted. Provisions requiring advance notice from shareholders of shareholder director nominations or shareholder proposals will be eliminated. Finally, provisions relating to the mechanics of shareholders' meetings, such as the appointment of an inspector of elections, inspection of shareholder lists and opening and closing of polls will be deleted.

[34] *See* Section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27). As under the current NYSE Group Certificate of Incorporation and current NYSE Group Bylaws, under the proposed NYSE Group Certificate of Incorporation and proposed NYSE Group Bylaws, if NYSE Group decides to change the proposed NYSE Group Certificate of Incorporation or proposed NYSE Group Bylaws, NYSE Group must submit such change to the board of directors of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities, and if any or all of such board of directors shall determine that such amendment or repeal is required by law or regulation to be filed with or filed with and approved by the Commission pursuant to Section 19 of the Exchange Act and the rules thereunder, such change shall not be effective until filed with or filed with and approved by the Commission, as applicable. *See* current NYSE Group Certificate of Incorporation, Article XIII, current NYSE Group Bylaws, Article VIII, Section 7.9(b), proposed NYSE Group Certificate of Incorporation, Article XII, and proposed NYSE Group Bylaws, Article VII, Section 7.9(b).

and must be filed with the Commission pursuant to Section 19(b)(4) of the Exchange Act and Rule 19b–4 thereunder. Accordingly, the Exchange has filed the proposed NYSE Group Certificate of Incorporation and proposed NYSE Group Bylaws with the Commission.

The Exchange has proposed to change the voting and ownership limitations of NYSE Group to include a statement that such limitations will not be applicable so long as NYSE Euronext and the Trust collectively own all of the capital stock of NYSE Group. Instead, while NYSE Group is a wholly owned subsidiary of NYSE Euronext, or as provided for in the Trust Agreement, there shall be no transfer of the shares of NYSE Group held by NYSE Euronext without the approval of the Commission.[35] If NYSE Group ceases to be wholly owned by NYSE Euronext or the Trust, the current voting and ownership limitations will apply.[36]

In addition, pursuant to the proposed NYSE Operating Agreement, except as otherwise provided for in the Trust Agreement, NYSE Group may not transfer or assign its interest in the Exchange, in whole or part, to any person or entity, unless such transfer or assignment is filed with and approved by the Commission under Section 19 of the Exchange Act.[37]

The Commission finds the changes to the ownership and voting restrictions in the proposed NYSE Group Certificate of Incorporation and the change in control provisions in the proposed NYSE Operating Agreement are consistent with the Exchange Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission, the Exchange, or its subsidiaries to effectively carry out their regulatory oversight responsibilities under the Exchange Act.

In addition, to allow NYSE Euronext to wholly own and vote all of NYSE Group stock upon consummation of the Combination, NYSE Euronext delivered a written notice to the board of directors of NYSE Group pursuant to the procedures set forth in the current NYSE Group Certificate of Incorporation requesting approval of its ownership and voting of NYSE Group stock in excess of the NYSE Group ownership limitation and NYSE Group voting limitation.[38] The board of directors of NYSE Group must resolve to expressly permit ownership or voting in excess of the NYSE Group ownership limitation and NYSE Group voting limitation. Such resolution of the NYSE Group board of directors must be filed with and approved by the Commission under Section 19(b) of the Exchange Act, and become effective thereunder. Further, the board of directors may not approve any voting or ownership in excess of the limitations unless it determines that such ownership or exercise of voting rights will not impair the ability of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca LLC, NYSE Arca, or NYSE Arca Equities to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of NYSE Group, its stockholders, and the U.S. Regulated Subsidiaries, and will not impair the Commission's ability to enforce the Exchange Act.[39] For so long as NYSE Group directly or indirectly controls the Exchange or NYSE Market, the NYSE Group board of directors cannot waive the voting and ownership limits above the 20% threshold if such person or its related persons is a ''member'' or ''member organization'' of the Exchange (as defined in Exchange Rules).[40] In addition, for so long as NYSE Group directly or indirectly controls NYSE Arca, NYSE Arca Equities, or any facility of NYSE Arca, the NYSE Group board of directors cannot waive the voting and ownership limits above the 20% threshold if such person or its related persons is an ETP Holder of NYSE Arca Equities, or an OTP Holder or an OTP Firm of NYSE Arca.[41] Further, the NYSE Group board of directors cannot waive the voting and ownership limits above the 20% threshold if such person or its related persons is a U.S. Disqualified Person.

The notice from NYSE Euronext included representations of NYSE Euronext that neither it, nor any of its related persons, are: (1) ETP Holders of NYSE Arca Equities, OTP Holders or OTP Firms of NYSE Arca: (2) members or member organizations of the Exchange; or (3) subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act). The NYSE Group board of directors adopted a resolution approving NYSE Euronext's request that it be permitted, either alone or with its related persons, to exceed the NYSE Group ownership limitation and the NYSE Group voting limitation.[42] The Exchange proposed that NYSE Euronext wholly own and vote all of the outstanding common stock of NYSE Group upon the consummation of the Combination.[43]

The Commission believes it is consistent with the Exchange Act to allow NYSE Euronext to wholly own and vote all of the outstanding common stock of NYSE Group. The Commission notes that NYSE Euronext and the Exchange represents that neither NYSE Euronext nor any of its related persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act), or is an ETP Holder of NYSE Arca Equities, OTP Holder or OTP Firm of NYSE Arca or member or member organization of the Exchange. Moreover, NYSE Euronext has comparable voting and ownership limitations to NYSE Group.[44] NYSE Euronext has also included in its corporate documents certain provisions designed to maintain the independence of the U.S. Regulated Subsidiaries' self-regulatory functions from NYSE Euronext and NYSE Group.[45] Accordingly, the Commission believes that the acquisition of ownership and exercise of voting rights of NYSE Group common stock by NYSE Euronext will not impair the ability of the Commission or any of the U.S. Regulated Subsidiaries to discharge their respective responsibilities under the Exchange Act.

3. The Exchange, NYSE Market and NYSE Regulation

Following the Combination, the Exchange, which is registered as a national securities exchange and is an SRO, will remain a wholly owned

[35] *See* proposed NYSE Group Certificate of Incorporation, Article IV, Section 4(a).

[36] *See* proposed NYSE Group Certificate of Incorporation, Article IV, Section 4(b). The Exchange also proposed to eliminate transfer restrictions on the common stock of NYSE Group issued to persons in connection with the merger of New York Stock Exchange, Inc. and Archipelago that exist in the current NYSE Group Certificate of Incorporation, as unnecessary, since upon the consummation of the Combination, all common stock will be wholly owned by NYSE Euronext.

[37] *See* proposed NYSE Operating Agreement, Article III, Section 3.03.

[38] Prior to permitting any person to exceed the ownership limitation and voting limitation, such person must deliver notice of such person's intention to own or vote shares in excess of the ownership limitation or voting limitation to the NYSE Group board of directors. *See* current NYSE Group Certificate of Incorporation, Article V, Sections 1(A) and 2(B).

[39] *See* current NYSE Group Certificate of Incorporation, Article V, Section 1(A)(x).

[40] *See* current NYSE Group Certificate of Incorporation, Article V, Section 1(A)(y).

[41] *Id.*

[42] Such resolutions of the NYSE Group board of directors were filed as part of the proposed rule change. *See* Exhibit K to the Notice, which exhibit is available on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*), at the Commission's Public Reference Room, at the NYSE, and on the NYSE's Web site (*http://www.nyse.com*).

[43] *See* Amendment No. 1, *supra* note 6.

[44] *See supra* notes 24–32 and accompanying text.

[45] *See infra* notes 65–85 and accompanying text.

subsidiary of NYSE Group.[46] NYSE Market will remain a wholly owned subsidiary of the Exchange and conduct the Exchange's business. The Combination will have no effect on the ability of any party to trade securities on the NYSE Market. NYSE Regulation will remain a wholly owned subsidiary of the Exchange, and will continue to perform the regulatory responsibilities for the Exchange pursuant to a delegation agreement with the Exchange and many of the regulatory functions of NYSE Arca pursuant to a regulatory services agreement with NYSE Arca.

Currently, directors of NYSE Group serve on the boards of the Exchange, NYSE Market, and NYSE Regulation, and the organizational documents of these entities refer to the independence requirements of NYSE Group. The Exchange has proposed to amend the organizational documents of the Exchange, NYSE Market, and NYSE Regulation to replace all references to NYSE Group with NYSE Euronext. Thus, a majority of the directors of each of the Exchange and NYSE Market must be U.S. Persons who are directors of NYSE Euronext that satisfy the independence requirements of the board of directors of NYSE Euronext. In addition, the Exchange's non-affiliated directors[47] must qualify as independent under the Independence Policy. All of the directors of NYSE Regulation (other than the chief executive officer of NYSE Regulation) must satisfy the independence requirements of the board of directors of NYSE Euronext. For this reason, the independence requirements of the board of directors of NYSE Euronext are relevant to the Commission's consideration of whether the boards of directors of the Exchange, NYSE Market, and NYSE Regulation are consistent with the Exchange Act.

Under the Independence Policy, the NYSE Euronext board of directors must make a determination that each director, other than the chief executive officer and deputy chief executive officer of NYSE Euronext, does not have any material relationships with NYSE Euronext and its subsidiaries.[48] In addition, the Independence Policy requires each member of the NYSE Euronext board of directors, other than the chief executive officer and deputy chief executive officer of NYSE Euronext, to be independent from: (1) NYSE Euronext and its subsidiaries (including NYSE Group, Euronext and their respective subsidiaries); (2) any member or member organization of the Exchange, NYSE Arca, or NYSE Arca Equities;[49] (3) any non-member broker-dealer that is registered under the Exchange Act and engages in business involving substantial direct contact with securities customers; and (4) any issuer of securities listed on the Exchange or NYSE Arca, unless such issuer is a ''foreign private issuer'' as defined under Rule 3b–4 promulgated under the Exchange Act.[50]

In contrast to the current independence policy of NYSE Group, the Independence Policy will not provide that a person fails to be independent: (1) If he or she is an executive officer of a foreign private issuer of securities listed on the Exchange or NYSE Arca; (2) is a director of an affiliate of a member organization of the Exchange, NYSE Arca, or NYSE Arca Equities;[51] or (3) is a European Person on the board of directors of NYSE Euronext prior to the annual meeting of NYSE Euronext stockholders in 2008. However, the Independence Policy states an executive officer of an issuer whose securities are listed on the Exchange or NYSE Arca (regardless of whether such issuer is a foreign private issuer) and a director of an affiliate of a member organization of the Exchange, NYSE Arca, or NYSE Arca Equities cannot qualify as an independent director of the Exchange, NYSE Market, or NYSE Regulation. In addition, a European Person on the NYSE Euronext board of directors who would not satisfy the independence requirements in the Independence Policy, but for the transition period, cannot qualify as an independent director of the Exchange, NYSE Market, or NYSE Regulation. The prohibition on these persons serving as independent directors of the Exchange, NYSE Market, and NYSE Regulation should help assure that the boards of directors of the Exchange, NYSE Market, and NYSE Regulation are controlled by persons not subject to potential conflicts of interest, and thereby further the goals of Section 6(b)(1) of the Exchange Act.[52]

One commenter[53] expressed concerns that the Independence Policy reflected a weaker independence standard than the current independence policy of NYSE Group. The commenter notes the transition period for European Persons on the NYSE Euronext board of directors as an example of such weakening, among other things. Further, the commenter asserts that the changes will impact the board of directors of NYSE Regulation. In its response to the comments, the Exchange notes that the Independence Policy specifically prohibits: (1) An executive officer of an issuer whose securities are listed on the Exchange or NYSE Arca (regardless of whether such issuer is a foreign private issuer); (2) a European Person on the NYSE Euronext board of directors who would not satisfy the independence requirements in the independence policy but for the transition period; or (3) any director of an affiliate of a member organization from qualifying as an independent director of the Exchange, NYSE Market, or NYSE Regulation.[54] The Exchange also notes that the modifications to the current independence policy of NYSE Group relate only to categorical prohibitions; the NYSE Euronext board of directors will still be required to determine that such persons do not have any material relationship with NYSE Euronext and its subsidiaries in order for them to qualify as independent directors.[55] Further, the Exchange notes that the Independence Policy does not change the independence requirements for NYSE Regulation directors.[56] The Exchange also notes that the Independence Policy was drafted to ensure that it still adequately ensures the independence of the directors of a

[46] The Exchange proposes to amend various rules to delete all references to ''NYSE Group, Inc.'' or ''NYSE Group'' in the Exchange Rules and replace those references with ''NYSE Euronext,'' which will be the indirect parent company of the Exchange following the Combination.

[47] The Exchange's non-affiliated directors are persons who are not members of the board of directors of NYSE Euronext, but qualify as independent under the independence policy of the board of directors of NYSE Euronext. *See* proposed NYSE Operating Agreement, Article II, Section 2.03.

[48] The Commission also notes that as a company listed on the Exchange, NYSE Euronext's board of directors must also meet the independence requirements applicable to a listed company's board of directors, as contained in Section 303A of the Exchange's Listed Company Manual.

[49] This will include members, allied members (each as defined in the Exchange Rules) and allied persons (as defined in the NYSE Arca and NYSE Arca Equities Rules), member organizations of the Exchange, OTP Firms and OTP Holders of NYSE Arca (each as defined in the Exchange Rules and the rules of NYSE Arca, respectively, as may be in effect from time to time) and ETP Holders of NYSE Arca Equities (as defined in the rules of NYSE Arca Equities, as may be in effect from time to time).

[50] 17 CFR 240.3b–4. The Exchange also has proposed that there be a transition period so that the Independence Policy will not apply to the European Persons on the NYSE Euronext board of directors until the annual meeting of NYSE Euronext stockholders in 2008.

[51] NYSE further proposes to amend Exchange Rule 2B to clarify that, if a director of an affiliate of a member organization serves as a director of NYSE Euronext, this fact shall not cause such member organization to be an affiliate of the Exchange, or an affiliate of an affiliate of the Exchange. The Commission finds that the Exchange Rule 2B as proposed to be changed, is consistent with the Exchange Act.

[52] 15 U.S.C. 78f(b)(1).

[53] *See* Brown Letter, *supra* note 4.

[54] *See* NYSE Response to Comments, *supra* note 5.

[55] *Id.*

[56] *Id.*

company controlling U.S. securities exchanges. The Commission believes that the Independence Policy maintains a level of independence that should help to minimize conflicts of interest at the Exchange, NYSE Market, and NYSE Regulation. The Commission finds that these proposals, taken together, are consistent with the Exchange Act, particularly with Section 6(b)(1),[57] which requires an exchange to be so organized and have the capacity to carry out the purposes of the Exchange Act.

The organizational documents of the Exchange, NYSE Market, and NYSE Regulation will be modified to require that a majority of the directors of the boards of each of the Exchange, NYSE Market, and NYSE Regulation be U.S. Persons and any vacancies on such boards created by the departure of a U.S. Person must be filled with a U.S. Person. Additionally, the organizational documents of the Exchange, NYSE Market and NYSE Regulation [58] will be amended to state that any person not meeting the board qualifications of the relevant organizational documents will not be qualified to serve, and therefore will not be eligible to serve, as a director.[59] The Nominating and Governance Committee of NYSE Euronext will be responsible for nominating the candidates to the boards of directors of the Exchange and NYSE Market, and for determining the eligibility of such candidates to serve on such boards (including whether such person qualifies as independent under the Independence Policy, and whether such person is not a U.S. Disqualified Person). The Commission finds that these proposals, taken together, are consistent with the Exchange Act, particularly Section 6(b)(1),[60] which requires an exchange to be so organized and have the capacity to carry out the purposes of the Exchange Act.

Immediately following the consummation of the Combination, none of the directors of the Exchange, NYSE Market or NYSE Regulation who will serve on such boards will have been elected or appointed by the Nominating and Governance Committee of NYSE Euronext as prescribed in the proposed governing documents of the Exchange, NYSE Market, and NYSE Regulation. However, the Exchange represented that the board members of the Exchange, NYSE Market, and NYSE Regulation immediately preceding the consummation of the Combination—including the directors selected to meet the fair representation requirements of the Exchange Act [61] (''fair representation'' directors or candidates)—will be qualified to serve on, and will remain on, the boards of each of the Exchange, NYSE Market, and NYSE Regulation, respectively, following the consummation of the Combination. In light of these circumstances, the Commission believes that the composition of the boards of directors of the Exchange, NYSE Market, and NYSE Regulation is consistent with the Exchange Act.

The NYSE Market Bylaws will be amended to delete the requirement that the chief executive officer of NYSE Group be the chief executive officer of NYSE Market, and to require instead that the chief executive officer of NYSE Market be a U.S. Person.

The amended organizational documents of the Exchange, NYSE Market, and NYSE Regulation will change the time period for member organizations to vote for ''fair representation'' candidates to 20 calendar days. Currently, if the number of ''fair representation'' candidates nominated for election to the boards of directors of each of the Exchange, NYSE Market and NYSE Regulation exceeds the number of available ''fair representation'' positions on such boards, member organizations of the Exchange have 20 business days to submit their votes for the ''fair representation'' candidates.[62] The Commission believes that the proposed amendment is consistent with Section 6(b)(3) of the Exchange Act,[63] which requires that the rules of an exchange assure fair representation of its members in the selection of its directors and administration of its affairs. Reducing the period for submission of votes from 20 business days to 20 calendar days should still afford members adequate time to consider and submit their votes. The Commission finds that these proposals, taken together, are consistent with the Exchange Act, particularly with Section 6(b)(1),[64] which requires an exchange to be so organized and have the capacity to carry out the purposes of the Exchange Act.

B. Relationship of NYSE Euronext, NYSE Group, and the U.S. Regulated Subsidiaries; Jurisdiction over NYSE Euronext

Although NYSE Euronext itself will not carry out regulatory functions, its activities with respect to the operation of any of the U.S. Regulated Subsidiaries must be consistent with, and not interfere with, the U.S. Regulated Subsidiaries' self-regulatory obligations. The proposed NYSE Euronext corporate documents include certain provisions that are designed to maintain the independence of the U.S. Regulated Subsidiaries' self-regulatory functions from NYSE Euronext and NYSE Group, enable the U.S. Regulated Subsidiaries to operate in a manner that complies with the U.S. federal securities laws, including the objectives and requirements of Sections 6(b) and 19(g) of the Exchange Act,[65] and facilitate the ability of the U.S. Regulated Subsidiaries and the Commission to fulfill their regulatory and oversight obligations under the Exchange Act.[66]

For example, under the proposed NYSE Euronext Bylaws, NYSE Euronext shall comply with the U.S. federal securities laws, the European Exchange Regulations, and the respective rules and regulations thereunder; shall cooperate with the Commission, the European Regulators, and the U.S. Regulated Subsidiaries.[67] Also, each director, officer, and employee of NYSE Euronext, in discharging his or her responsibilities shall comply with the U.S. federal securities laws and the rules and regulations thereunder, cooperate with the Commission, and cooperate with the U.S. Regulated Subsidiaries.[68] In addition, in discharging his or her responsibilities as a member of the board, each director of NYSE Euronext must, to the fullest extent permitted by applicable law, take into consideration the effect that NYSE Euronext's actions would have on the ability of the U.S. Regulated Subsidiaries to carry out their responsibilities under the Exchange Act,

[57] 15 U.S.C. 78f(b)(1).

[58] *See supra* note 11 and related text.

[59] *See* proposed NYSE Operating Agreement, Article II, Section 2.03, and proposed NYSE Market Bylaws, Article III, Section 1.

[60] 15 U.S.C. 78f(b)(1).

[61] *See* proposed NYSE Operating Agreement, Article II, Section 2.03, proposed NYSE Market Bylaws, Article III, Section 1, and proposed NYSE Regulation Bylaws, Article III, Section 1.

[62] The Commission notes that other than the changes specified in this Section IIA3, the Exchange is not proposing to change any of the provisions relating to (i) assure the fair representation of the members of the Exchange in the selection of its directors and administration of its affairs or (ii) one or more directors of the exchange being representative of issuers and investors and not being associated with a member of the exchange or with a broker dealer, each as required under Section 6(b)(3) of the Exchange Act. 15 U.S.C. 78f(b)(3).

[63] 15 U.S.C. 78f(b)(3).

[64] 15 U.S.C. 78f(b)(1).

[65] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(g).

[66] *See* proposed NYSE Euronext Certificate of Incorporation, Article XIII, and proposed NYSE Euronext Bylaws, Article III, Section 3.15, Article VII, Article VIII, Article IX, and Article X, Section 10.10.

[67] *See* proposed NYSE Euronext Bylaws, Article IX, Sections 9.1 and 9.2.

[68] *See* proposed NYSE Euronext Bylaws, Article III, Section 3.15.

on the ability of the European Market Subsidiaries to carry out their responsibilities under the European Exchange Regulations as operators of European Regulated Markets, and on the ability of NYSE Group and NYSE Euronext to carry out their responsibilities under the Exchange Act.[69] NYSE Euronext, its directors, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the U.S. Regulated Subsidiaries (to the extent of each U.S. Regulated Subsidiary's self-regulatory function) and the European Market Subsidiaries (to the extent of each European Market Subsidiaries' self-regulatory function).[70] Further, NYSE Euronext agrees to keep confidential, to the fullest extent permitted by applicable law, all confidential information pertaining to: (1) The self-regulatory function of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca and NYSE Arca Equities (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the U.S. Regulated Subsidiaries; and (2) the self-regulatory function of the European Market Subsidiaries under the European Exchange Regulations as operator of a European Regulated Market (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the European Market Subsidiaries, and not use such information for any commercial[71] purposes.[72]

In addition, NYSE Euronext's books and records shall be subject at all times to inspection and copying by the Commission, the European Regulators, any U.S. Regulated Subsidiary (provided that such books and records are related to the operation or administration of such U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight) and any European Market Subsidiary (provided that such books and records are related to the operation or administration of such European Market Subsidiary or any European Regulated Market over which such European Market Subsidiary has regulatory authority or oversight).[73] NYSE Euronext's books and records related to U.S. Regulated Subsidiaries shall be maintained within the United States, and NYSE Euronext's books and records related to European Market Subsidiaries shall be maintained in the home jurisdiction of one or more of the European Market Subsidiaries.[74] To the extent that any of NYSE Euronext's books and records relate to both the U.S. Regulated Subsidiaries and the European Market Subsidiaries (each such book and record, an ''Overlapping Record''), NYSE Euronext shall be entitled to maintain such books and records in either the United States or the home jurisdiction of one or more of the European Market Subsidiaries.[75] To facilitate compliance with the requirements of Rule 17a–1(b) under the Exchange Act, NYSE Euronext shall maintain in the United States originals or copies of Overlapping Records covered by Rule 17a–1(b) promptly after creation of such Overlapping Records. The Commission notes that NYSE Euronext is liable for any books and records it is required to produce for inspection and copying by the Commission that are created outside the United States and where the law of a foreign jurisdiction prohibits NYSE Euronext from providing such books and records to the Commission for inspection and copying.

In addition, for so long as NYSE Euronext directly or indirectly controls any U.S. Regulated Subsidiary, the books, records, premises, officers, directors, and employees of NYSE Euronext shall be deemed to be the books, records, premises, officers, directors, and employees of the U.S. Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act, and for so long as NYSE Euronext directly or indirectly controls any European Market Subsidiary, the books, records, premises, officers, directors, and employees of NYSE Euronext shall be deemed to be the books, records, premises, officers, directors, and employees of such European Market Subsidiaries for purposes of and subject to oversight pursuant to the European Exchange Regulations.[76]

NYSE Euronext, its directors and officers, and those of its employees whose principal place of business and residence is outside of the United States irrevocably submit to the jurisdiction of the U.S. federal courts and the Commission with respect to activities relating to the U.S. Regulated Subsidiaries, and to the jurisdiction of the European Regulators and European courts with respect to activities relating to the European Market Subsidiaries.[77]

Each of NYSE Euronext, NYSE Group, the Exchange and NYSE Market acknowledges that it is responsible for referring possible rule violations to NYSE Regulation. In addition, there will be an explicit agreement among NYSE Euronext, NYSE Group, the Exchange, NYSE Market and NYSE Regulation to provide adequate funding for NYSE Regulation, as is currently the case among the NYSE Group entities.

Finally, the proposed NYSE Euronext Certificate of Incorporation and proposed NYSE Euronext Bylaws require that, for so long as NYSE Euronext controls, directly or indirectly, any of the U.S. Regulated Subsidiaries, any changes to the proposed NYSE Euronext Certificate of Incorporation and proposed NYSE Euronext Bylaws be submitted to the board of directors of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities, and if any such boards of directors determines that such amendment is required to be filed with or filed with and approved by the Commission pursuant to Section 19 of the Exchange Act[78] and the rules thereunder, such change shall not be effective until filed with or filed with and approved by, the Commission.[79]

The Commission finds that these provisions are consistent with the Exchange Act, and that they are intended to assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Exchange Act. With respect to the maintenance of books and records of NYSE Euronext, the Commission notes that while NYSE Euronext has the discretion to maintain Overlapping Records in either the United States or the home jurisdiction of one or more of the European Market Subsidiaries, NYSE Euronext has represented to the Commission that it will maintain in the United States originals or copies of Overlapping Records covered by Rule 17a–1(b) under the Exchange Act[80] promptly after

[69] *See* proposed NYSE Euronext Bylaws, Article III, Section 3.15.

[70] *See* proposed NYSE Euronext Bylaws, Article IX, Sections 9.4 and 9.5.

[71] The Commission believes that any non-regulatory use of such information would be for a commercial purpose.

[72] *See* proposed NYSE Euronext Bylaws, Article VIII, Section 8.1.

[73] *See* proposed NYSE Euronext Bylaws, Article VIII, Section 8.3.

[74] *See* proposed NYSE Euronext Bylaws, Article VIII, Sections 8.4 and 8.5.

[75] *See* proposed NYSE Euronext Bylaws, Article VIII, Section 8.6.

[76] *See* proposed NYSE Euronext Bylaws, Article VIII, Sections 8.4 and 8.5.

[77] *See* proposed NYSE Euronext Bylaws, Article VII, Sections 7.1 and 7.2.

[78] 15 U.S.C. 78s.

[79] *See* proposed NYSE Group Certificate of Incorporation, Article XII and proposed NYSE Group Bylaws, Article VII, Section 7.9.

[80] 17 CFR 240.17a–1(b).

creation of such Overlapping Records. The Commission believes that such actions by NYSE Euronext with respect to its books and records are necessary to ensure that the U.S. Regulated Subsidiaries comply with the requirements of Section 17 of the Exchange Act[81] and Rule 17a–1(b) thereunder.[82]

Under Section 20(a) of the Exchange Act,[83] any person with a controlling interest in the Exchange or NYSE Arca shall be jointly and severally liable with and to the same extent that the Exchange and NYSE Arca are liable under any provision of the Exchange Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Exchange Act[84] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Exchange Act or rule thereunder. Further, Section 21C of the Exchange Act[85] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Exchange Act through an act or omission that the person knew or should have known would contribute to the violation. These provisions are applicable to NYSE Euronext's and NYSE Group's dealings with the U.S. Regulated Subsidiaries.

C. Trust

NYSE Euronext will operate several regulated entities located in the United States and in various jurisdictions in Europe. As described in the Notice, in connection with obtaining regulatory approval of the Combination, NYSE Euronext proposed to implement two standby structures, one involving a Delaware trust and one involving a Dutch foundation (''Dutch Foundation''). Pursuant to the terms of the Trust Agreement,[86] the Delaware trust (''Trust'') will be empowered to take actions to mitigate the effects of any material adverse change in European law that has an ''extraterritorial'' impact on the non-European issuers listed on NYSE Group securities exchanges, non-European financial services firms that are members of any NYSE Group securities exchange, or any NYSE Group securities exchange.[87]

Upon the occurrence of a material adverse change of law[88] that continues after the cure periods described below, the Trust may exercise certain remedies that result in a total or partial loss by NYSE Euronext of operating control over some of its securities exchanges. The Trust may require that NYSE Euronext transfer control over a substantial portion of its business and assets to the direction of the Trust. As a result, control of NYSE Group or any NYSE Group securities exchange may be assumed by the Trust. As discussed above, Section 19(b) of the Exchange Act and Rule 19b–4 thereunder require an SRO to file a proposed rule change with the Commission. Although the Trust is not an SRO, certain provisions of the Trust Agreement are rules of an exchange[89] if they are stated policies, practice, or interpretations, as defined in Rule 19b–4 under the Exchange Act,[90] of the exchange, and must be filed with the Commission pursuant to Section 19(b)(4) of the Exchange Act[91] and Rule 19b–4 thereunder. Accordingly, the Exchange has filed the Trust Agreement with the Commission.

1. Governance of the Trust

The Trust will be administered by a board of three trustees.[92] The initial trustees of the Trust will be selected jointly by NYSE Group and Euronext prior to the Combination, with successor members to be selected by the nominating and governance committee of the NYSE Euronext board of directors.[93]

Pursuant to the Trust Agreement, actions of the Trust will require majority approval of the members of the board of trustees, following reasonable consultation and good-faith cooperation with NYSE Euronext.[94] In determining whether a material adverse change of law has occurred and the exercise of the remedies, and in exercising its rights and powers during the pendency of a material adverse change of law, the duty of the Trust and its trustees shall be to act in the public interests of the markets operated by NYSE Group and its subsidiaries if and only to the extent necessary to avoid or eliminate the impact or effect of a material adverse change of law. In all other circumstances, the duty of the Trust and its trustees shall be to act in the best interests of NYSE Euronext.[95] In addition, the Trust and trustees shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate (and take reasonable steps necessary to cause its agents to cooperate) with the Commission and the U.S. Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority.[96]

Under the Trust Agreement, if a material adverse change in law occurs with respect to a NYSE Group securities exchange (an ''affected subsidiary'') and shall continue after the cure periods specified below, the board of trustees of the Trust may exercise several remedies following prior notice to, and, if required under then applicable laws, prior approval by, the Commission.

After a cure period of six months, the board of trustees of the Trust may deliver confidential or public and non-binding or binding advice to NYSE Group and NYSE Euronext with respect to the affected subsidiary relating to decisions regarding: (1) Changes to the rules of an affected subsidiary; (2) decisions to enter into (or not enter into) or alter the terms of listing agreements of an affected subsidiary; (3) decisions

[81] 15 U.S.C. 78q.

[82] 17 CFR 240.17a–1(b).

[83] 15 U.S.C. 78t(a).

[84] 15 U.S.C. 78t(e).

[85] 15 U.S.C. 78u–3.

[86] *See* proposed Trust Agreement, by and among NYSE Euronext, NYSE Group, the Delaware trustee, and the trustees, attached as Exhibit 5M to Amendment No. 1 (''Trust Agreement'').

[87] The Dutch Foundation will be empowered to take actions intended to mitigate the effects of any material adverse change in U.S. law that has an ''extraterritorial'' impact on non-U.S. issuers listed on Euronext markets, non-U.S. financial services firms that are members of Euronext markets or holders of exchange licenses with respect to the Euronext markets. The Exchange described the proposed Dutch Foundation in the Notice, *supra* note 3.

[88] What constitutes a material adverse change of law is described in the Notice, *supra* note 3, at 824–825.

[89] *See* Section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27). If NYSE Euronext decides to change its Amended and Restated Certificate of Incorporation or Amended and Restated Bylaws, NYSE Euronext must submit such change to the board of directors of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities, and if any or all of such board of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the Commission pursuant to Section 19 of the Exchange Act and the rules thereunder, such change shall not be effective until filed with or filed with and approved by the Commission, as applicable. *See* proposed NYSE Euronext Certificate of Incorporation, Article X and proposed NYSE Euronext Bylaws, Article X, Section 10.10(C).

[90] 17 CFR 240.19b–4.

[91] 15 U.S.C. 78s(b).

[92] *See* Trust Agreement, Article III, Section 3.2.

[93] *See* Trust Agreement, Article III, Section 3.4. The initial term of the Trust will be ten years from the date of the consummation of the Combination, renewable for successive one-year terms; provided, however, that any extension that would cause the term of the Trust to continue past the 20th anniversary of the date of the consummation of the Combination shall require the prior written consent of NYSE Euronext. *See* Trust Agreement, Article II, Section 2.5.

[94] *See* Trust Agreement, Article III, Sections 3.5 and 3.6.

[95] *See* Trust Agreement, Article II, Section 2.3 and Article III, Section 3.6.

[96] *See* Trust Agreement, Article V, Sections 5.2 and 5.3.

to enter into (or not enter into) or alter the terms of contractual arrangements with any non-European financial services firms in relation to an affected subsidiary; (4) changes in information and communications technologies for an affected subsidiary; and (5) changes in clearing and settlement for an affected subsidiary ((1) through (5), together the ''Assumed Matters'').[97]

After a cure period of six months, the board of trustees of the Trust may assume management responsibilities of NYSE Group or its affected subsidiary with respect to some or all of the Assumed Matters. The board of trustees of the Trust may exercise a call option over priority shares issued by NYSE Group or its affected subsidiary, which priority shares will carry no or a limited economic right or interest and the right to vote on, make proposals with respect to and impose consent requirements to approve actions in relation to, the Assumed Matters.[98]

After a cure period of nine months, the board of trustees of the Trust may exercise a call option over the common stock or voting securities of NYSE Group or its affected subsidiary, in each case, with such common stock, ordinary shares or voting securities being the minimum number necessary, in the reasonable opinion of the trustees of the Trust, to cause all affected subsidiaries to cease to be subject to a material adverse change of law.[99]

Furthermore, subject to any required approval by the Commission, the Trust shall be entitled to give confidential non-binding advice to NYSE Euronext at any time before the end of the above-mentioned cure period and NYSE Euronext shall be entitled, in its sole discretion, to implement any remedy at any time before the end of such cure period.[100]

Any of the above remedies may be imposed only if and to the extent that such remedy: (1) Causes all affected subsidiaries to cease to be subject to a material adverse change of European law; and (2) is the remedy available that causes the least intrusion on the conduct of the business and operations of NYSE Euronext and NYSE Group, and its subsidiaries, including the affected subsidiaries, by their respective governing bodies.[101]

In addition, prior to the exercise of a call option, the board of trustees of the Trust must determine that no other remedy can cause all of the affected subsidiaries to cease to be subject to a material adverse change of law; consult with the NYSE Euronext board of directors; and, in the case of a material adverse change in law with respect to a NYSE Group securities exchange, consult with the NYSE Group board of directors and the Commission to consider the solutions available to address the situation that has arisen and would trigger the right of the Trust to exercise the remedies described above, taking into account any possible adverse consequences for NYSE Euronext or NYSE Group in terms of taxation or accounting treatment.[102]

If and when any of the conditions of a material adverse change of law cease, any and all remedies shall be immediately unwound. NYSE Euronext shall have the right, at any time and regardless of whether a change of law continues to be a material adverse change of law, to request and cause the unwinding of any remedy for the purpose of and to the extent necessary to effect a divesture or spin-off of all or part of its interest in NYSE Group or NYSE Euronext, as applicable, or any subsidiary of NYSE Euronext operating an exchange that is affected by a material adverse change of law, as the case may be.[103]

2. Relationship of the Trust, NYSE Group, and the U.S. Regulated Subsidiaries; Jurisdiction Over the Trust

Although the Trust itself will not carry out regulatory functions, its activities with respect to the operation of NYSE Group and any of the U.S. Regulated Subsidiaries must be consistent with, and not interfere with, the U.S. Regulated Subsidiaries' self-regulatory obligations. The Trust Agreement includes certain provisions that are designed to maintain the independence of the U.S. Regulated Subsidiaries' self-regulatory functions from the Trust, enable the U.S. Regulated Subsidiaries to operate in a manner that complies with the U.S. federal securities laws, including the objectives and requirements of Sections 6(b) and 19(g) of the Exchange Act, and facilitate the ability of the U.S. Regulated Subsidiaries and the Commission to fulfill their regulatory and oversight obligations under the Exchange Act.[104]

For example, under the Trust Agreement, the Trust shall comply with the U.S. federal securities laws and the rules and regulations thereunder, and shall cooperate with the Commission and the U.S. Regulated Subsidiaries.[105] Also, each trustee, officer, and employee of the Trust, in discharging his or her responsibilities in such capacity, shall comply with the U.S. federal securities laws and the rules and regulations thereunder, cooperate with the Commission, and cooperate with the U.S. Regulated Subsidiaries.[106] In addition, in discharging his or her responsibilities as a trustee, each trustee must, to the fullest extent permitted by applicable law, take into consideration the effect that the Trust's actions would have on the ability of the U.S. Regulated Subsidiaries, NYSE Euronext and NYSE Group to discharge their respective responsibilities under the Exchange Act.[107] The Trust, trustees, and the officers and employees of the Trust shall give due regard to the preservation of the independence of the self-regulatory function of the U.S. Regulated Subsidiaries (to the extent of each U.S. Regulated Subsidiary's self-regulatory function) and shall not take any action that would interfere with the effectuation of any decision by the board of directors or managers of the U.S. Regulated Subsidiaries relating to their regulatory responsibilities or that would interfere with the ability of the U.S. Regulated Subsidiaries to carry out their respective responsibilities under the Exchange Act.[108] The Trust, the trustees, and the officers and employees of the Trust whose principal place of business and residence is outside of the United States irrevocably submit to the jurisdiction of the U.S. federal courts and the Commission with respect to activities relating to the U.S. Regulated Subsidiaries.[109]

In addition, the Trust's books and records shall be subject at all times to inspection and copying by the Commission, NYSE Euronext, NYSE Group, and any U.S. Regulated Subsidiary (provided that such books and records are related to the operation or administration of such U.S. Regulated

[97] *See* Trust Agreement, Article IV, Section 4.1.

[98] *See* Trust Agreement, Article IV, Section 4.1.

[99] *Id.*

[100] *Id.*

[101] *Id.* In determining whether a remedy causes the least intrusion, negative control by the Trust shall be preferred over affirmative control by the Trust, and authority of the Trust shall be asserted over the fewest and most narrow decisions of NYSE Euronext and its subsidiaries. A remedy covering fewer entities and subsidiary entities shall be preferred over a remedy covering more entities and parent entities. The call option over the priority shares shall be viewed as a remedy of last resort among the remedies that are available after the six-month cure period, and the call option over the common stock, ordinary shares and voting securities shall be viewed as a remedy of last resort among all remedies. *See* Trust Agreement, Article IV, Section 4.1.

[102] *See* Trust Agreement, Article IV, Section 4.1.

[103] *See* Trust Agreement, Article IV, Section 4.4.

[104] *See* Trust Agreement, Articles V, VI, and VIII.

[105] *See* Trust Agreement, Article V, Section 5.3(a).

[106] *See* Trust Agreement, Article V, Section 5.2(a).

[107] *See* Trust Agreement, Article V, Section 5.1(a).

[108] *See* Trust Agreement, Article V, Section 5.1(b).

[109] *See* Trust Agreement, Article V, Section 5.4.

Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight).[110] The Trust's books and records related to U.S. Regulated Subsidiaries shall be maintained within the United States.[111]

In addition, for so long as the Trust directly or indirectly controls any U.S. Regulated Subsidiary, the books, records, premises, officers, trustees, and employees of the Trust shall be deemed to be the books, records, premises, officers, trustees, and employees of the U.S. Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act.[112] Further, the Trust agrees to keep confidential, to the fullest extent permitted by applicable law, all confidential information pertaining to the self-regulatory function of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca and NYSE Arca Equities (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the U.S. Regulated Subsidiaries and not use such information for any commercial [113] purposes.[114] The Commission notes that the proposed governing documents of NYSE Euronext and NYSE Group contain similar confidentiality provisions regarding information pertaining to the self-regulatory function of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities.[115] The Commission believes that confidentiality provisions in the proposed NYSE Euronext Bylaws and proposed NYSE Group Certificate of Incorporation apply to any such confidential information obtained by NYSE Euronext or NYSE Group, including that which comes into their possession through the Trust.

The Trust Agreement provides that in no event shall the Trust sell, transfer, convey, assign, dispose, pledge (or agree to sell, transfer, convey, assign, dispose or pledge) any property of the Trust, except pursuant to the unwinding of the remedies, or in circumstances permitted by the Trust Agreement and pursuant to written instructions from NYSE Euronext approved by the board of directors of NYSE Euronext. In addition to the foregoing, any transfer, conveyance, assignment, disposition or pledge by the Trust or any trustee of any equity interest in, or all or substantially all of the assets of, the Exchange, NYSE Market, NYSE Regulation, NYSE Arca LLC, NYSE Arca, or NYSE Arca Equities (other than any such transfer or disposition to NYSE Euronext or its subsidiaries pursuant to the unwinding of remedies) shall not be effected until filed with the Commission under Section 19 of the Exchange Act.[116]

The Trust Agreement requires that it may only be amended with prior written approval of the Commission, as and to the extent required under the Exchange Act.[117] Further, for so long as NYSE Euronext or the Trust shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries, before any amendment or repeal of any provision of the Trust Agreement shall be effective, such amendment or repeal must be submitted to the boards of directors of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities. If any such boards of directors determines that such amendment or repeal is required to be filed with or filed with and approved by the Commission pursuant to Section 19 of the Exchange Act [118] and the rules thereunder, such change shall not be effective until filed with or filed with and approved by the Commission.[119]

The Commission finds that the Trust Agreement's provisions are designed to enable the U.S. Regulated Subsidiaries to operate in a manner that complies with the federal securities laws, including the objectives and requirements of Sections 6(b) and 19(g) of the Exchange Act,[120] facilitate the ability of the U.S. Regulated Subsidiaries and the Commission to fulfill their regulatory and oversight obligations under the Exchange Act,[121] and are consistent with the provisions other entities that directly or indirectly own or control an SRO have instituted and that have been approved by the Commission.[122] The Commission finds that the Trust's provisions are consistent with the Exchange Act, and that they are intended to assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Exchange Act.

Under Section 20(a) of the Exchange Act,[123] any person with a controlling interest in the Exchange or NYSE Arca shall be jointly and severally liable with and to the same extent that the Exchange and NYSE Arca are liable under any provision of the Exchange Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Exchange Act [124] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Exchange Act or rule thereunder. Further, Section 21C of the Exchange Act [125] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Exchange Act through an act or omission that the person knew or should have known would contribute to the violation. These provisions are applicable to the Trust and all other entities controlling the U.S. Regulated Subsidiaries.

D. Automatic Suspension and Repeal of Certain Provisions in the NYSE Euronext Organizational Documents

Under the organizational documents of NYSE Euronext, immediately following the exercise of a call option over a substantial portion of Euronext's business (a ''Euronext call option''), whereby the priority shares or ordinary shares of Euronext are transferred from NYSE Euronext to the Dutch Foundation, and for so long as the Dutch Foundation shall continue to hold any priority shares or ordinary shares of Euronext, or the voting securities of one or more of the subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, then certain

[110] *See* Trust Agreement, Article VI, Section 6.3.

[111] *See* Trust Agreement, Article VI, Section 6.1(b).

[112] *Id.*

[113] The Commission believes that any non-regulatory use of such information would be for a commercial purpose.

[114] *See* Trust Agreement, Article VI, Section 6.1. The Trust Agreement states that none of its provisions shall be interpreted so as to limit or impede the rights of the Commission or any of the U.S. Regulated Subsidiaries to have access to and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any trustees, officers, directors, employees, or agents of NYSE Euronext or the Trust to disclose such confidential information to the Commission or the U.S. Regulated Subsidiaries. *See* Trust Agreement, Article VI, Section 6.2.

[115] *See* proposed NYSE Euronext Bylaws, Article VIII and proposed NYSE Group Certificate of Incorporation, Article X.

[116] *See* Trust Agreement, Article IV, Section 4.3. The proposed rule change also includes modifications to the organizational documents of the Exchange, NYSE Market, and NYSE Regulation so that the a transfer of the equity interests of the Exchange, NYSE Market, and NYSE Regulation pursuant to the terms of the Trust Agreement is permitted under such organizational documents.

[117] *See* Trust Agreement, Article VIII, Section 8.2.

[118] 15 U.S.C. 78s.

[119] *See* Trust Agreement, Article VIII, Section 8.2.

[120] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(g).

[121] *See* Trust Agreement, Articles V, VI, and VIII.

[122] *See, e.g.*, NYSE Inc.-Archipelago Merger Order, *supra* note 32.

[123] 15 U.S.C. 78t(a).

[124] 15 U.S.C. 78t(e).

[125] 15 U.S.C. 78u–3.

provisions of the proposed NYSE Euronext Bylaws shall be suspended.[126]

In addition, if after a period of six months following the exercise of a Euronext call option, the Dutch Foundation shall continue to hold any ordinary or priority shares of Euronext or any ordinary or priority shares or similar voting securities of one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, or if at any time, NYSE Euronext no longer holds a direct or indirect controlling interest in Euronext or in one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, then certain provisions of the proposed NYSE Euronext Bylaws and the proposed NYSE Euronext Certificate of Incorporation shall be revoked.[127] In addition, any officer or director of NYSE Euronext who is a European Person shall resign or be removed from his or her office.

The Commission finds the suspension or repeal of the above described provisions of the proposed NYSE Euronext Bylaws and the proposed NYSE Euronext Certificate of Incorporation under circumstances in which the Dutch Foundation controls a substantial portion of Euronext's business, is consistent with the Exchange Act.

E. Listing of NYSE Euronext's or an Affiliate's Securities

NYSE Euronext intends to list its shares of common stock for trading on the Exchange, as well as on Euronext Paris. Pursuant to the proposed amendments to NYSE Rule 497, any security of NYSE Euronext and its affiliates shall not be approved for listing on the Exchange unless NYSE Regulation determines that such securities satisfy the Exchange's rules for listing, and such finding is approved by the NYSE Regulation board of directors.[128] The Commission finds that the proposed procedure for the initial listing of NYSE Euronext common stock is consistent with the Exchange Act.

NYSE Regulation will be responsible for all Exchange listing-compliance decisions with respect to NYSE Euronext as an issuer. As in the case of NYSE Group under current Exchange Rule 497, NYSE Regulation will prepare a quarterly report summarizing its monitoring of NYSE Euronext common stock's compliance with such listing standards and its monitoring of trading in such securities. This report will be provided to the NYSE board of directors and to the Commission. Any notification of lack of compliance with any applicable listing standard from NYSE Regulation to NYSE Euronext or an affiliate, and any corresponding plan of compliance, must be reported to the Commission. Once a year, an independent accounting firm will review NYSE Euronext's or any affiliated issuer's compliance with the Exchange's listing standards and a copy of this report will be forwarded to the Commission. The Commission believes that the procedures for monitoring of the listing of and trading of NYSE Euronext's or an affiliate's securities are consistent with the Act.

F. Options Trading Rights

The Commission received a comment letter[129] on the proposed rule change regarding certain Option Trading Rights (''OTRs'') that were separated from full New York Stock Exchange, Inc.[130] seats (''Separated OTRs''). All New York Stock Exchange seat ownership (with or without OTRs) was extinguished in the 2006 demutualization of New York Stock Exchange, Inc.[131] Although the commenter supports the Combination, it contends that the owners of Separated OTRs retained their Separated OTRs, even after the New York Stock Exchange, Inc. exited the options business in 1997, with the expectation that their ownership of the Separated OTRs would afford them full rights to trade options under the auspices of New York Stock Exchange, Inc. or its successor entity. The commenter contends that such ownership gives a right to trade options on NYSE Market and NYSE Arca, and after the Combination, Euronext. The commenter refers to its comment letters in connection with the demutualization of New York Stock Exchange, Inc. in its merger with Archipelago.[132]

The issue of the rights of owners of Separated OTRs is not before the Commission in the context of this rule filing. Pursuant to Section 19(b)(1) of the Exchange Act,[133] an SRO (such as NYSE) is required to file with the Commission any proposed rule or any proposed change in, addition to, or deletion from the rules of such SRO. Further, pursuant to Section 19(b)(2) of the Exchange Act,[134] the Commission shall approve a proposed rule change filed by an SRO if the Commission finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the SRO. The NYSE is not proposing in this filing a change in the trading rights on the Exchange.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act[135] that the proposed rule change (SR–NYSE–2006–120) is approved, and Amendment No. 1 is approved on an accelerated basis.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–2909 Filed 2–21–07; 8:45 am]

BILLING CODE 8010–01–P

[126] These include the requirement that European Persons are represented in a certain proportion on the NYSE Euronext board of directors and the nominating and governance committee of the NYSE Euronext board of directors; the requirement of supermajority board or shareholder approval for certain extraordinary transactions; the provisions granting jurisdiction to European regulators over certain actions of NYSE Euronext and the NYSE Euronext board of directors; and references to European regulators, European market subsidiaries and European disqualified persons appearing in the proposed NYSE Euronext Bylaws.

[127] These include the provisions of the proposed NYSE Euronext Bylaws subject to suspension; the references in the proposed NYSE Euronext Certificate of Incorporation and proposed NYSE Euronext Bylaws to European regulators, European exchange regulations, European market subsidiaries, European regulated markets, Europe and European disqualified persons; the provisions in the proposed NYSE Euronext Certificate of Incorporation and proposed NYSE Euronext Bylaws requiring that amendments to such certificate of incorporation or bylaws be submitted to the European market subsidiaries and, if applicable, filed with and approved by a European regulator; and the provisions in the proposed NYSE Euronext Bylaws requiring approval of either two-thirds or more of the NYSE Euronext directors or 80% of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of NYSE Euronext entitled to vote generally in the election of directors to amend certain bylaw provisions.

[128] The Exchange proposes to delete Exchange Rule 497T (Transition Rules for the First Listed Security Issued by NYSE Group, Inc.), which is now obsolete.

[129] *See* OTR Investors Letter, *supra* note 4.

[130] New York Stock Exchange, Inc. is the predecessor entity to NYSE. *See* NYSE Inc.—Archipelago Merger Order, *supra* note 32.

[131] *See* NYSE Inc.—Archipelago Merger Order, *supra* note 32.

[132] *See* NYSE Inc.—Archipelago Merger Order, *supra* note 32, at note 6.

[133] 15 U.S.C. 78s(b)(1).

[134] 15 U.S.C. 78s(b)(2).

[135] *Id.*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55294; File No. SR–NYSEArca–2007–05]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Accelerated Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Regarding a Proposed Combination Between NYSE Group, Inc. and Euronext N.V.

February 14, 2007.

I. Introduction

On January 12, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding the proposed business combination (''Combination'') between NYSE Group, Inc. (''NYSE Group'') and Euronext N.V. (''Euronext''). The proposed rule change was published for comment in the **Federal Register** on January 19, 2007.[3] The Commission received no comments on the proposal. On February 13, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order grants accelerated approval to the proposed rule change, grants accelerated approval to Amendment No. 1, and solicits comments from interested persons on Amendment No. 1.

The Commission has reviewed carefully the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b) of the Exchange Act,[6] which, among other things, requires a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Exchange Act and to enforce compliance by its members and persons associated with its members with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the exchange, and assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. Section 6(b) of the Exchange Act [7] also requires that the rules of the exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds good cause for approving this proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**. This proposed rule change seeks to make changes to the following documents: The Amended and Restated Certificate of Incorporation of NYSE Euronext (''NYSE Euronext Certificate of Incorporation''); the Amended and Restated Bylaws of NYSE Euronext (''NYSE Euronext Bylaws''); the NYSE Euronext Director, Independence Policy (''Independence Policy''), which policy will replace the current NYSE Group Director Independence Policy; the proposed Amended and Restated Certificate of Incorporation of NYSE Group (''NYSE Group Certificate of Incorporation''); the proposed Amended and Restated Bylaws of NYSE Group (''NYSE Group Bylaws''); the resolutions of the board of directors of NYSE Group; and the proposed Trust Agreement for the Delaware Trust (''Trust Agreement''). All of the proposed changes to these documents were published for comment in connection with the proposed rule change submitted by the New York Stock Exchange LLC (''NYSE LLC'') in connection with the Combination.[8] In addition to these changes, the Exchange has proposed changes to the proposed Amended and Restated Certificate of Incorporation of Archipelago Holdings, Inc. (''Arca Holdings'') to allow for the ownership and voting of shares of Arca Holdings by the Delaware Trust (''Trust'').[9] The Commission has received no comment letters on this proposal. The Commission finds good cause to accelerate approval of this proposal to allow the timing of this approval to coincide with the approval of the corresponding filing by the NYSE LLC.[10]

A. Accelerated Approval of Amendment No. 1

The Commission also finds good cause for approving Amendment No. 1 prior to the thirtieth day after publishing notice of Amendment No. 1 in the **Federal Register** pursuant to Section 19(b)(2) of the Exchange Act.[11] In Amendment No. 1, the Exchange made technical revisions to proposed Article VII, Section 2 of the proposed NYSE Group Certificate of Incorporation relating to quorum requirements for each meeting of stockholders.[12] These changes are necessary to clarify the proposal. The Commission finds good cause to accelerate approval of these changes prior to the thirtieth day after publication in the **Federal Register** because they clarify the Exchange's rules, which should facilitate the Exchange's compliance with its rules, and the Commission's ability to ensure compliance with such rules, and assist members and investors in understanding the application and scope of the rules.

In addition, the Exchange made certain clarifying, conforming, technical, non-material, and non-substantive changes to the proposed Amended and Restated Certificate of Incorporation of Arca Holdings (''Arca Holdings Certificate of Incorporation''), the proposed NYSE Group Certificate of Incorporation, the Independence Policy, and the proposed Trust Agreement, which raise no new or novel issues. These changes are non-substantive and technical in nature and are necessary to reflect the changes from the current rules of the Exchange and clarify the proposal. The Commission finds good cause exists to accelerate approval of these changes prior to the thirtieth day

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55109 (January 16, 2007), 72 FR 2578 (''Notice'').

[4] *See* Partial Amendment dated February 13, 2007 (''Amendment No. 1''). The text of Amendment No. 1 and Exhibits 5C, 5D, 5G, and 5H, which set forth certain governing documents as proposed to be amended, are available on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*), at the Commission's Public Reference Room, at the Exchange, and on the Exchange's Web site (*http://www.nysearca.com*).

[5] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 55026 (December 29, 2006), 72 FR 814 (January 8, 2007) (''NYSE LLC Rule Filing'').

[9] Similar changes have been proposed for NYSE Group. *See* proposed NYSE Group Certificate of Incorporation, Article IV, Section 4.

[10] *See* Securities Exchange Act Release No. 55293 (February 14, 2007) (approval order for SR–NYSE–2006–120 (''NYSE LLC Approval Order'')).

[11] 15 U.S.C. 78s(b)(2). Pursuant to Section 19(b)(2) of the Exchange Act, the Commission may not approve any proposed rule change, or amendment thereto, prior to the thirtieth day after the date of publication of the notice thereof, unless the Commission finds good cause for so doing.

[12] In the Notice, the Exchange mistakenly showed proposed deletions to the current quorum requirements. The Exchange is not proposing to change the quorum requirements that exist in the current NYSE Group Certificate of Incorporation.

after publication in the **Federal Register** because they clarify the Exchange's rules, which should facilitate the Exchange's compliance with its rules, the Commission's ability to ensure compliance with such rules, and assist members and investors in understanding the application and scope of the rules.

The Commission finds that the changes proposed in Amendment No. 1 are consistent with the Exchange Act and therefore finds good cause to accelerate approval of Amendment No. 1, pursuant to Section 19(b)(2) of the Exchange Act.[13]

B. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2007–05 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–NYSEArca–2007–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro-shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to Amendment No. 1 of File Number SR–NYSEArca–2007–05 and should be submitted on or before March 15, 2007.

[13] 15 U.S.C. 78s(b)(2).

II. Discussion

The Exchange has submitted the proposed rule change in connection with the Combination of NYSE Group with Euronext. As a result of the Combination, the businesses of NYSE Group (including the businesses of the Exchange and NYSE LLC (a New York limited liability company, registered national securities exchange and self-regulatory organization)), and Euronext will be held under a single, publicly traded holding company named NYSE Euronext, a Delaware corporation (''NYSE Euronext''). Following the Combination, each of NYSE Group and Euronext will be a separate subsidiary of NYSE Euronext, and their respective businesses and assets will continue to be held as they are currently held (subject to any post-closing corporate reorganization of Euronext). The proposed rule change is necessary to effectuate the consummation of the Combination and will not be operative until the consummation of the Combination.

A. Corporate Structure

After the Combination, Arca Holdings, a Delaware corporation, will remain a wholly owned subsidiary of NYSE Group. NYSE Arca Holdings, Inc., a Delaware corporation (''NYSE Arca Holdings''), and NYSE Arca L.L.C., a Delaware limited liability company (''NYSE Arca LLC''), will remain wholly owned subsidiaries of Arca Holdings. NYSE Arca will remain a wholly owned subsidiary of NYSE Arca Holdings, and NYSE Arca Equities, Inc. (''NYSE Arca Equities''), a Delaware corporation formerly known as PCX Equities, Inc., will remain a wholly owned subsidiary of NYSE Arca. NYSE Arca will continue to maintain its status as a registered national securities exchange and self-regulatory organization. Arca Holdings' businesses and assets will continue to be held by it and its subsidiaries. NYSE LLC will remain a wholly owned subsidiary of NYSE Group. NYSE Market, Inc. (''NYSE Market''), a Delaware corporation, and NYSE Regulation, Inc. (''NYSE Regulation''), a New York Type A not-for-profit corporation, will remain wholly owned subsidiaries of NYSE LLC.[14]

The Exchange represents that the Combination will also have no effect on the ability of any party to trade securities on NYSE Arca, NYSE Arca Equities, or NYSE Market. Euronext and its subsidiaries will continue to operate their business and operations in substantially the same manner as they are conducted currently, with any changes subject to the approval of the European Regulators to the extent required.

1. NYSE Euronext

Following the Combination, NYSE Euronext will be a for-profit, publicly traded stock corporation and will act as a holding company for the businesses of NYSE Group and Euronext. NYSE Euronext will own all of the equity interests in NYSE Group and its subsidiaries, including the Exchange and NYSE Arca, and a majority (if not all) of the equity interests in Euronext and its respective subsidiaries. Section 19(b) of the Exchange Act and rule 19b–4 thereunder require a self-regulatory organization (''SRO'') to file proposed rule changes with the Commission. Although NYSE Euronext is not an SRO, certain provisions of the NYSE Euronext Certificate of Incorporation and NYSE Euronext Bylaws are rules of an exchange[15] if they are stated policies, practice, or interpretations, as defined in rule 19b–4 under the Exchange Act,

[14] For a description of the Combination and related rule changes regarding NYSE Euronext, NYSE Group, and the Trust, see the NYSE LLC Approval Order, *supra* note 10. *See also* NYSE LLC Rule Filing, *supra* note 8. The Combination involves certain modifications to the organizational documents of NYSE Group and of NYSE Euronext, which upon consummation of the Combination will be the new indirect parent company of NYSE LLC and of the Exchange. Provisions of the organizational documents of NYSE Group and NYSE Euronext and the Trust Agreement constitute rules of NYSE LLC and of the Exchange. The resolutions of the board of directors of NYSE Group are also rules of NYSE LLC and of the Exchange requiring Commission approval. Accordingly, NYSE LLC and the Exchange have each submitted proposed rule changes to reflect the rule changes to be implemented in connection with the Combination.

[15] *See* section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27). If NYSE Euronext decides to change its Amended and Restated Certificate of Incorporation or Amended and Restated Bylaws, NYSE Euronext must submit such change to the board of directors of NYSE LLC, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities, and if any or all of such board of directors shall determine that such amendment or repeal must be filed with or filed with and approved by the Commission pursuant to section 19 of the Exchange Act and the rules thereunder, such change shall not be effective until filed with or filed with and approved by the Commission, as applicable. *See* proposed NYSE Euronext Certificate of Incorporation, Article X and proposed NYSE Euronext Bylaws, Article X, section 10.10(C).

of the exchange, and must be filed with the Commission pursuant to section 19(b)(4) of the Exchange Act and rule 19b–4 thereunder. Accordingly, the Exchange has filed the NYSE Euronext Certificate of Incorporation and NYSE Euronext Bylaws with the Commission.

a. Board of Directors

It is currently contemplated that immediately after the Combination, the NYSE Euronext board of directors will consist of twenty-two directors.[16] Each member of the NYSE Euronext board of directors (other than the chief executive officer and deputy chief executive officer of NYSE Euronext if they are members of the board of directors) must satisfy the independence requirements set forth in the Independence Policy, as amended from time to time. This Independence Policy, however, is not referenced in the organizational documents of the Exchange or NYSE Arca Equities,[17] and is therefore not relevant to the Commission's consideration of whether the boards of directors of the Exchange or NYSE Arca Equities are consistent with the Exchange Act.

b. Voting and Ownership Limitations; Changes in Control of the Exchange

The NYSE Euronext Certificate of Incorporation includes restrictions on the ability to vote and own shares of stock of NYSE Euronext.[18] Members that trade on an exchange traditionally have ownership interests in such exchange. As the Commission has noted in the past, however, a member's interest in an exchange could become so large as to cast doubt on whether the exchange can fairly and objectively exercise its self-regulatory responsibilities with respect to that member.[19] A member that is a controlling shareholder of an exchange might be tempted to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and surveil the member's conduct or diligently enforce its rules and the federal securities laws with respect to conduct by the member that violates such provisions.

The Commission finds the ownership and voting restrictions in the NYSE Euronext Certificate of Incorporation are consistent with the Exchange Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission, the Exchange, or its subsidiaries to effectively carry out their regulatory oversight responsibilities under the Exchange Act.

2. NYSE Group

Following the Combination, NYSE Group will merge with a wholly owned subsidiary of NYSE Euronext and the surviving corporation will be a wholly owned subsidiary of NYSE Euronext. Section 19(b) of the Exchange Act and Rule 19b–4 thereunder require an SRO to file proposed rule changes with the Commission. Although NYSE Group is not an SRO, certain provisions of its Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws are rules of an exchange[20] if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 of the Exchange Act, of the exchange, and must be filed with the Commission pursuant to Section 19(b)(4) of the Exchange Act and Rule 19b–4 thereunder. Accordingly, the Exchange has filed the proposed NYSE Group Certificate of Incorporation and proposed NYSE Group Bylaws with the Commission.

The Exchange has proposed to change the voting and ownership limitations of NYSE Group to include a statement that such limitations will not be applicable so long as NYSE Euronext and the Trust collectively own all of the capital stock of NYSE Group. Instead, while NYSE Group is a wholly owned subsidiary of NYSE Euronext, or as provided for in the Trust Agreement, there shall be no transfer of the shares of NYSE Group held by NYSE Euronext without the approval of the Commission.[21] If NYSE Group ceases to be wholly owned by NYSE Euronext or the Trust, the current voting and ownership limitations will apply.[22]

The Commission finds the changes to the ownership and voting restrictions in the proposed NYSE Group Certificate of Incorporation are consistent with the Exchange Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or the ability of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca LLC, NYSE Arca, and NYSE Arca Equities (together, the ''U.S. Regulated Subsidiaries'') to effectively carry out their regulatory oversight responsibilities under the Exchange Act.

The Exchange requested that the Commission allow NYSE Euronext to wholly own and vote all of the outstanding common stock of NYSE Group.[23] The Commission believes it is consistent with the Exchange Act to allow NYSE Euronext to wholly own and vote all of the outstanding common stock of NYSE Group.[24] The Commission notes that NYSE Euronext represents that neither NYSE Euronext nor any of its related persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act), or is an ETP Holder of NYSE Arca Equities, OTP Holder or OTP Firm of NYSE Arca or member or member organization of NYSE LLC. Moreover, NYSE Euronext has comparable voting and ownership limitations to NYSE Group. NYSE Euronext has also included in its corporate documents certain provisions designed to maintain the independence of the U.S. Regulated Subsidiaries' self-

[16] For a detailed description of the provisions regarding the composition of, and the selection process for, the NYSE Euronext board of directors, *see* NYSE LLC Approval Order, *supra* note 10.

[17] The organizational documents of the Exchange and NYSE Arca Equities (unlike the organizational documents of NYSE LLC, NYSE Market and NYSE Regulation) do not require that any of the members of the board of directors of the Exchange and NYSE Arca Equities be members of the board of directors of NYSE Euronext. *See* Bylaws of NYSE Arca, Article III, Section 3.02, and Bylaws of NYSE Arca Equities, Article III, Section 3.02.

[18] *See* NYSE LLC Approval Order, *supra* note 10, for a detailed description of the provisions regarding restrictions on the ability to vote and own shares of stock of NYSE Euronext.

[19] *See* Securities Exchange Act Release Nos. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving merger of New York Stock Exchange, Inc. and Archipelago, and demutualization of New York Stock Exchange, Inc. (''NYSE Inc.-Archipelago Merger Order'')); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131); 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26); 49718 (May 17, 2004), 69 FR 29611 (May 24, 2004) (SR–PCX–2004–08); 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73); and 49067 (January 13, 2004), 69 FR 2761 (January 20, 2004) (SR–BSE–2003–19).

[20] *See* Section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27). If NYSE Group decides to change its Amended and Restated Certificate of Incorporation or Amended and Restated Bylaws, NYSE Group must submit such change to the board of directors of NYSE LLC, NYSE Market, NYSE Regulation, NYSE Arca, and NYSE Arca Equities, and if any or all of such board of directors shall determine that such amendment or repeal is required by law or regulation to be filed with or filed with and approved by the Commission pursuant to Section 19 of the Exchange Act and the rules thereunder, such change shall not be effective until filed with or filed with and approved by the Commission, as applicable. *See* proposed NYSE Group Certificate of Incorporation, Article XII and proposed Amended and Restated Bylaws of NYSE Group (''NYSE Group Bylaws''), Article VII, Section 7.9(b).

[21] *See* proposed NYSE Group Certificate of Incorporation, Article IV, Section 4(a).

[22] *See* proposed NYSE Group Certificate of Incorporation, Article IV, Section 4(b).

[23] The Exchanged clarified in Amendment No. 1 that NYSE Euronext alone be permitted to wholly own and vote such shares. *See* Amendment No. 1 *supra* note 4.

[24] *See* NYSE LLC Approval Order, *supra* note 10, for a description of the proposal that NYSE Euronext wholly own and vote all of the outstanding stock of NYSE Group upon the consummation of the Combination.

regulatory functions from NYSE Euronext and NYSE Group. Accordingly, the Commission believes that the acquisition of ownership and exercise of voting rights of NYSE Group common stock by NYSE Euronext will not impair the ability of the Commission or any of the U.S. Regulated Subsidiaries to discharge their respective responsibilities under the Exchange Act.

3. The Exchange and NYSE Arca Equities

Following the Combination, NYSE Arca, which is registered as a national securities exchange and is an SRO, will remain a wholly owned subsidiary of NYSE Arca Holdings, and NYSE Arca Equities will remain a wholly owned subsidiary of NYSE Arca. The Combination will have no effect on the ability of any party to trade securities on NYSE Arca or NYSE Arca Equities. Pursuant to a regulatory services agreement, NYSE Regulation will continue to perform many of the regulatory functions of NYSE Arca.

There will be no change to the current manner of election or appointment of the directors and officers of Arca Holdings, NYSE Arca Holdings, NYSE Arca LLC, NYSE Arca, or NYSE Arca Equities as a result of the Combination.

Article Fourth of the proposed Arca Holdings Certificate of Incorporation will be amended to provide for voting or ownership of the shares of stock of Arca Holdings by the Trust pursuant to the terms and conditions of the Trust Agreement by and among NYSE Euronext, Inc., NYSE Group, Inc. and the trustees and Delaware trustee thereto.[25] The Commission finds that these changes to the ownership and voting restrictions in the proposed Arca Holdings Certificate of Incorporation are consistent with the Exchange Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or the U.S. Regulated Subsidiaries to effectively carry out their regulatory oversight responsibilities under the Exchange Act.

B. Relationship of NYSE Euronext, NYSE Group, and the U.S. Regulated Subsidiaries; Jurisdiction Over NYSE Euronext

Although NYSE Euronext itself will not carry out regulatory functions, its activities with respect to the operation of any of the U.S. Regulated Subsidiaries must be consistent with, and not interfere with, the U.S. Regulated Subsidiaries' self-regulatory obligations. The NYSE Euronext corporate documents include certain provisions that are designed to maintain the independence of the U.S. Regulated Subsidiaries' self-regulatory functions from NYSE Euronext and NYSE Group, enable the U.S. Regulated Subsidiaries to operate in a manner that complies with the federal securities laws, including the objectives of Sections 6(b) and 19(g) of the Exchange Act,[26] and facilitate the ability of the U.S. Regulated Subsidiaries and the Commission to fulfill their regulatory and oversight obligations under the Exchange Act.[27]

The Commission finds that the provisions proposed by the Exchange are consistent with the Exchange Act, and that they will assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Exchange Act. With respect to the maintenance of books and records of NYSE Euronext, the Commission notes that while NYSE Euronext has the discretion to maintain books and records that relate to both the U.S. Regulated Subsidiaries and the European Market Subsidiaries (each such book and record, an ''Overlapping Record'') in either the United States or the home jurisdiction of one or more of the European Market Subsidiaries, NYSE Euronext has represented to the Commission that it will maintain in the United States originals or copies of Overlapping Records covered by Rule 17a–1(b) under the Exchange Act[28] promptly after creation of such Overlapping Records.[29] The Commission believes that such actions by NYSE Euronext with respect to its books and records are necessary to ensure that the U.S. Regulated Subsidiaries comply with the requirements of Section 17 of the Exchange Act[30] and Rule 17a–1(b) thereunder.

Under Section 20(a) of the Exchange Act,[31] any person with a controlling interest in NYSE LLC or NYSE Arca shall be jointly and severally liable with and to the same extent that NYSE LLC and NYSE Arca are liable under any provision of the Exchange Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Exchange Act[32] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Act or rules thereunder. Further, Section 21C of the Exchange Act[33] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Exchange Act through an act or omission that the person knew or should have known would contribute to the violation. These provisions are applicable to NYSE Euronext's and NYSE Group's dealings with the U.S. Regulated Subsidiaries.

C. Trust

NYSE Euronext will operate several regulated entities located in the United States and in various jurisdictions in Europe. In connection with obtaining regulatory approval of the Combination, NYSE Euronext proposed to implement two standby structures, one involving a Delaware trust and one involving a Dutch foundation (''Dutch Foundation'').[34] Pursuant to the terms of the Trust Agreement,[35] the Trust will be empowered to take actions to mitigate the effects of any material adverse change in European law that has an ''extraterritorial'' impact on the non-European issuers listed on NYSE Group securities exchanges, non-European financial services firms that are members of any NYSE Group securities exchange, or any NYSE Group securities exchange.

Upon the occurrence of a material adverse change of law that continues after the designated cure periods, the Trust may exercise certain remedies that result in a total or partial loss by NYSE Euronext of operating control over some of its securities exchanges. The Trust may require that NYSE Euronext transfer control over a substantial portion of its business and assets to the direction of the Trust. As a result,

[25] *See* proposed Arca Holdings Certificate of Incorporation, Article Fourth (C)(1) and (D)(1).

[26] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(g).

[27] *See* NYSE LLC Approval Order, Section II.B., *supra* note 10, for a detailed discussion of proposed provisions in the NYSE Euronext Bylaws regarding NYSE Euronext compliance with U.S. federal securities laws; NYSE Euronext books and records; jurisdiction of the U.S. federal courts and the Commission; confidential information pertaining to self-regulation; and responsibilities of NYSE Euronext directors with respect to the ability of U.S. Regulated Subsidiaries, NYSE Euronext, and NYSE Group to carry out their responsibilities under the Exchange Act, including referring rule violations and providing funding to NYSE Regulation.

[28] 17 CFR 240.17a–1(b).

[29] *See* NYSE LLC Rule Filing, *supra* note 8, at 822.

[30] 15 U.S.C. 78q.

[31] 15 U.S.C. 78t(a).

[32] 15 U.S.C. 78t(e).

[33] 15 U.S.C. 78u–3.

[34] *See* NYSE LLC Approval Order, *supra* note 10, for a detailed discussion of the Delaware Trust and Dutch Foundation.

[35] *See* proposed Trust Agreement, by and among NYSE Euronext, NYSE Group, the Delaware trustee and the trustees, attached as Exhibit H to Amendment No. 1.

control of NYSE Group of any NYSE Group securities exchange may be assumed by the Trust. As discussed above, Section 19(b) of the Exchange Act and Rule 19b–4 thereunder require an SRO to file a proposed rule change with the Commission. Although the Trust is not an SRO, certain provisions of the Trust Agreement are rules of an exchange [36] if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 under the Exchange Act,[37] of the exchange, and must be filed with the Commission pursuant to Section 19(b)(4) of the Exchange Act [38] and Rule 19b–4 thereunder. Accordingly, the Exchange has filed the Trust Agreement with the Commission.

The Trust Agreement contains detailed provisions with respect to governance of the Trust; remedies that may be exercised by trustees upon the occurrence of a material adverse change in law; the relationship of the Trust, NYSE Group, and the U.S. Regulated Subsidiaries; and jurisdiction over the Trust.[39] The Commission finds that the Trust Agreement's provisions are designed to enable the U.S. Regulated Subsidiaries to operate in a manner that complies with the federal securities laws, including the objectives and requirements of Sections 6(b) and 19(g) of the Exchange Act,[40] and to facilitate the ability of the U.S. Regulated Subsidiaries and the Commission to fulfill their regulatory and oversight obligations under the Exchange Act,[41] and are consistent with the provisions other entities that directly or indirectly own or control an SRO have instituted and that have been approved by the Commission.[42] The Commission finds that the Trust's provisions are consistent with the Exchange Act, and that they are intended to assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Exchange Act.

Under Section 20(a) of the Exchange Act,[43] any person with a controlling interest in NYSE LLC and NYSE Arca shall be jointly and severally liable with and to the same extent that NYSE LLC and NYSE Arca are liable under any provision of the Exchange Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Exchange Act [44] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Exchange Act or rule thereunder. Further, Section 21C of the Exchange Act [45] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Exchange Act through an act or omission that the person knew or should have known would contribute to the violation. These provisions are applicable to the Trust and all other entities controlling the U.S. Regulated Subsidiaries.

D. Automatic Suspension and Repeal of Certain Provisions in the NYSE Euronext Organizational Documents

Under the organizational documents of NYSE Euronext, immediately following the exercise of a call option over a substantial portion of Euronext's business (a ''Euronext call option''), whereby the priority shares or ordinary shares of Euronext are transferred from NYSE Euronext to the Dutch Foundation, and for so long as the Dutch Foundation shall continue to hold any priority shares or ordinary shares of Euronext, or the voting securities of one or more of the subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, then certain provisions of the NYSE Euronext Bylaws shall be suspended.[46]

In addition, if after a period of six months following the exercise of a Euronext call option, the Dutch Foundation shall continue to hold any ordinary or priority shares of Euronext or any ordinary or priority shares or similar voting securities of one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, or if at any time, NYSE Euronext no longer holds a direct or indirect controlling interest in Euronext or in one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, then certain provisions of the NYSE Euronext Bylaws and the NYSE Euronext Certificate of Incorporation shall be revoked.[47] In addition, any officer or director of NYSE Euronext who is a European Person shall resign or be removed from his or her office.

The Commission finds the suspension or repeal of the above described provisions of the NYSE Euronext Bylaws and the NYSE Euronext Certificate of Incorporation under circumstances in which the Dutch Foundation controls a substantial portion of Euronext's business, is consistent with the Exchange Act.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act [48] that the proposed rule change (SR–NYSEArca–2007–05), as amended by Amendment No. 1, is approved on an accelerated basis.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–2910 Filed 2–21–07; 8:45 am]

BILLING CODE 8011–01–P

[36] *See* Section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27).

[37] 17 CFR 240.19b–4.

[38] 15 U.S.C. 78s(b).

[39] *See* NYSE LLC Approval Order, Sections II.C and II.D, *supra* note 10, for a detailed description of the provisions contained in the Trust Agreement.

[40] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(g).

[41] *See* Trust Agreement, Articles V, VI, and VIII.

[42] *See, e.g.*, NYSE Inc.-Archipelago Merger Order, *supra* note 19.

[43] 15 U.S.C. 78t(a).

[44] 15 U.S.C. 78t(e).

[45] 15 U.S.C. 78u–3.

[46] These include the requirement that European Persons are represented in a certain proportion on the NYSE Euronext board of directors and the nominating and governance committee of the NYSE Euronext board of directors; the requirement of supermajority board or shareholder approval for certain extraordinary transactions; the provisions granting jurisdiction to European regulators over certain actions of NYSE Euronext and the NYSE Euronext board of directors; and references to European regulators, European market subsidiaries and European disqualified persons appearing in the NYSE Euronext Bylaws.

[47] These include the provisions of the NYSE Euronext Bylaws subject to suspension; the references in the NYSE Euronext Certificate of Incorporation and NYSE Euronext Bylaws to European regulators, European exchange regulations, European market subsidiaries, European regulated markets, Europe and European disqualified persons; the provisions in the NYSE Euronext Certificate of Incorporation and NYSE Euronext Bylaws requiring that amendments to such certificate of incorporation or bylaws be submitted to the European market subsidiaries and, if applicable, filed with and approved by a European regulator; and the provisions in the NYSE Euronext Bylaws requiring approval of either two-thirds or more of the NYSE Euronext directors or 80% of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of NYSE Euronext entitled to vote generally in the election of directors to amend certain bylaw provisions.

[48] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55290; File No. SR–PHLX–2007–05]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Changing the Payment for Order Flow Fee for Options Subject to the Penny Pilot Program

February 13, 2007.

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 January 25, 2007, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On February 8, 2007, the PHLX submitted Amendment No. 1 to the proposed rule change. PHLX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by PHLX under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder, [4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to decrease its payment for order flow fee from $0.70 per contract to $0.25 per contract for the equity options that trade as part of the Exchange's Penny Pilot Program to quote and trade options in penny increments (as discussed in more detail below). Listed below is each option class included in the Penny Pilot Program and the effective date of the fee change for such option class.

Symbol	Underlying security	Anticipated effective date (for trades settling on or after the dates set forth below)
IWM	ishares Russell 2000 Index Fund	February 12, 2007.
SMH	Semiconductor Holdrs	February 12, 2007.
GE	General Electric Company	February 5, 2007.
AMD	Advanced Micro Devices, Inc	February 12, 2007.
MSFT	Microsoft Corporation	February 5, 2007.
INTC	Intel Corporation	February 12, 2007.
CAT	Caterpillar, Inc	February 12, 2007.
WFMI	Whole Foods Market, Inc	January 29, 2007.
TXN	Texas Instruments Incorporated	February 12, 2007.
A	Agilent Tech Inc	February 12, 2007.
SUNW	Flextronics International Ltd	February 12, 2007.
FLEX	Sun Microsystems, Inc	February 12, 2007.

For the Nasdaq–100 Index Tracking Stock℠ traded under the symbol QQQQ (''QQQQ''), [5] the payment for order flow fee would be decreased from $0.75 to $0.25, anticipated to be effective for trades settling on or after February 12, 2007.

Other than the rate changes described above, no other changes to the Exchange's current payment for order flow program are being proposed at this time.

This proposal is to become effective for trades settling on or after the rollout date for each option listed above and would remain in effect until May 27, 2007.[6]

The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.phlx.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PHLX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange assesses a payment for order flow fee of $0.70 per contract for equity options other than options on QQQQ. Options on QQQQ are assessed $0.75 per contract. Specialists,[7] Directed Registered Options Traders (''Directed ROTs'') and Registered Options Traders (''ROTs'') are assessed a payment for order flow fee when a customer order is directed to a specialist unit or Directed ROT who participates in the Exchange's payment for order flow program.[8] Trades resulting from either Directed[9] or non-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The Nasdaq–100(®), Nasdaq–100 Index(®), Nasdaq(®), The Nasdaq Stock Market(r), Nasdaq–100 Shares℠, Nasdaq–100 Trust℠, Nasdaq–100 Index Tracking Stock℠, and QQQ℠ are trademarks or service marks of The Nasdaq Stock Market, Inc. (''Nasdaq'') and have been licensed for use for certain purposes by the Philadelphia Stock Exchange pursuant to a License Agreement with Nasdaq. The Nasdaq–100 Index(®) (the ''Index'') is determined, composed, and calculated by Nasdaq without regard to the Licensee, the Nasdaq–100 Trust℠, or the beneficial owners of Nasdaq–100 Shares℠. Nasdaq has complete control and sole discretion in determining, comprising, or calculating the Index or in modifying in any way its method for determining, comprising, or calculating the Index in the future.

[6] The Exchange's payment for order flow program is currently in effect until May 27, 2007. *See* Securities Exchange Act Release No. 53841 (May 19, 2006), 71 FR 30461 (May 26, 2006) (SR–Phlx–2006–33).

[7] The Exchange uses the terms ''specialist'' and ''specialist unit'' interchangeably herein.

[8] Therefore, the payment for order flow fee is assessed, in effect, on equity option transactions between a customer and a ROT, a customer and a Directed ROT, or a customer and a specialist when a customer order is directed to a specialist or Directed ROT who participates in the Exchange's payment for order flow program.

[9] The term ''Directed Order'' means any customer order to buy or sell, which has been directed to a

Continued

Directed Orders that are delivered electronically over AUTOM[10] and executed on the Exchange are assessed a payment for order flow fee, while non-electronically-delivered orders (*i.e.*, represented by a floor broker) are not assessed a payment for order flow fee.[11]

Separately, the Exchange intends to implement a six-month pilot period beginning on January 26, 2007 (the ''pilot''), during which certain options (the options set forth in this proposal) would be quoted and traded on the Exchange in minimum increments of $0.01 for all series in such options with a price of less than $3.00, and in minimum increments of $0.05 for all series in such options with a price of $3.00 or higher, except that options overlying the QQQQ would be quoted and traded in minimum increments of $0.01 for all series regardless of the price.[12]

The purpose of this proposal is to assess payment for order flow fees in a manner that the Exchange believes is more appropriate in light of the pilot. In connection with the implementation of the pilot, the Exchange proposes to decrease the amount of the payment for order flow fees in the options that are subject to the pilot because the Exchange believes that, with narrower minimum increments and therefore possibly narrower spreads, specialists, Directed ROTs, and ROTs may face tighter profit margins if coupled with the current $0.70 (or $0.75 for QQQQ) payment for order flow fee. By reducing the payment for order flow fees in the options that are subject to the pilot, the Exchange believes that members and member organizations should continue to display strong liquid markets, without being financially burdened with the higher payment for order flow fees that are currently in effect.

The purpose of establishing different effective dates is to implement the proposed payment for order flow fees on the date on which each specified option is rolled out in connection with the pilot. The proposed fees would remain in effect until May 27, 2007.[13]

2. Statutory Basis

The Exchange believes that the proposed rule change to amend its schedule of fees is consistent with Section 6(b) of the Act[14] in general, and Section 6(b)(4) of the Act[15] in particular, in that it is an equitable allocation of reasonable fees and other charges among exchange members.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[16] and Rule 19b–4(f)(2)[17] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such 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.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PHLX–2007–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2007–05. 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 PHLX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2007–05 and should be submitted on or before March 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2986 Filed 2–21–07; 8:45 am]

BILLING CODE 8010–01–P

particular specialist, Remote Streaming Quote Trader or Streaming Quote Trader by an Order Flow Provider.

[10] AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. *See* Exchange Rules 1014(b)(ii) and 1080.

[11] Electronically-delivered orders do not include orders delivered through the Floor Broker Management System pursuant to Exchange Rule 1063.

[12] *See* Securities Exchange Act Release No. 54886 (December 6, 2006), 71 FR 74979 (December13, 2006) (SR–Phlx–2006–74).

[13] *See supra*, note 6.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, the Commission considers the period to commence on February 8, 2007, the date on which the Exchange filed Amendment No. 1.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55285; File No. SR–Phlx–2007–10]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of the Position Limits Pilot Program

February 13, 2007.

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 February 12, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Phlx. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to extend an existing pilot program applicable to Exchange Rule 1001, Position Limits, which increases the standard position and exercise limits for equity option contracts, including options on the Nasdaq-100 Index Tracking Stock[5] (''QQQQ'') (''Pilot Program''). The Exchange proposes to extend the Pilot Program through September 1, 2007. The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and *http://www.phlx.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

The purpose of the proposed rule change is to extend the existing Pilot Program, which is scheduled to expire March 1, 2007,[6] for an additional six-month period, through September 1, 2007.

Position limits impose a ceiling on the number of option contracts in each class on the same side of the market relating to the same underlying security that can be held or written by an investor or group of investors acting in concert. Exchange Rule 1002 (not proposed to be amended herein) establishes corresponding exercise limits. Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

Rule 1001 subjects equity options to one of five different position limits depending on the trading volume and outstanding shares of the underlying security. Rule 1002 establishes exercise limits for the corresponding options at the same levels as the corresponding security's position limits.[7]

Standard Position and Exercise Limit

The Pilot Program increases the standard position and exercise limits for equity options traded on the Exchange and for options overlying QQQQ to the following levels:

Standard equity option contract limit[8]	Pilot program equity option contract limit
13,500	25,000
22,500	50,000
31,500	75,000
60,000	200,000
75,000	250,000
300,000	900,000

To date, the Exchange believes that there have been no adverse affects on the market as a result of these increases in the limits for equity option contracts and options overlying QQQQ.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objective of Section 6(b)(5) of the Act[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and the national market system, and, in general to protect investors and the public interest, by extending the Pilot Program for an additional six months.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Nasdaq-100®, Nasdaq-100 Index®, Nasdaq®, The Nasdaq Stock Market®, Nasdaq-100 Shares℠, Nasdaq-100 Trust℠, Nasdaq-100 Index Tracking Stock℠, and QQQ℠ are trademarks or service marks of The NASDAQ Stock Market LLC (''Nasdaq'') and have been licensed for use for certain purposes by Phlx pursuant to a License Agreement (''License'') with Nasdaq. The Nasdaq-100 Index® (''Index'') is determined, composed, and calculated by Nasdaq without regard to the Licensee, the Nasdaq-100 Trust℠, or the beneficial owners of Nasdaq-100 Shares℠. Nasdaq has complete control and sole discretion in determining, comprising, or calculating the Index or in modifying in any way its method for determining, comprising, or calculating the Index in the future.

[6] *See* Securities Exchange Act Release Nos. 51322 (March 4, 2005), 70 FR 12260 (March 11, 2005) (SR–Phlx–2005–17); 52261 (August 15, 2005), 70 FR 49004 (August 22, 2005) (SR–Phlx–2005–51); 53388 (February 28, 2006), 71 FR 11458 (March 7, 2006) (SR–Phlx–2006–13); and 54387 (August 30, 2006), 71 FR 52842 (September 7, 2006) (SR–Phlx–2006–48).

[7] Rule 1002 states, in relevant part, '' * * * no member or member organization shall exercise, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange (or, respecting an option not dealt in on the Exchange, another exchange if the member or member organization is not a member of that exchange) if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in that class (put or call) as set forth as the position limit in Rule 1001, in the case of options on a stock or on an Exchange-Traded Fund Share* * *.''

[8] Except when the Pilot Program is in effect.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[13] However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and in the public interest because it will allow the Pilot Program to continue uninterrupted.[15]

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 Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2007–10 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 No. SR–Phlx–2007–10. 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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2007–10 and should be submitted on or before March 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2987 Filed 2–21–07; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to 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 of the proposed rule change, or such shorter time as designated by the Commission. Phlx has satisfied the five-day pre-filing requirement.

[14] *Id.*

[15] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Delegation of Authority No. 296]

Delegation by the Under Secretary of State for Political Affairs to the Assistant Secretary of State for Educational and Cultural Affairs of the Functions Relating to Emergency Import Restrictions on Iraqi Cultural Antiquities

By virtue of the authority vested in the Secretary of State by the laws of the United States, including Section 1 of the State Department Basic Authorities Act and the Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security—Assignment of Functions Relating to Import Restrictions on Iraqi Antiquities, dated May 5, 2006 (71 FR 28,753), and delegated to the Under Secretary of State for Political Affairs pursuant to Delegation of Authority No. 294 (July 6, 2006), I hereby delegate to the Assistant Secretary of State for Educational and Cultural Affairs the functions of the President under section 3002 of the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 (title III of Public Law 108–429).

In performing such functions, the Assistant Secretary of State shall consult the Secretary of Homeland Security and the heads of other departments and agencies or their designees, as appropriate.

Notwithstanding this delegation of authority, the Secretary of State, the Deputy Secretary of State, the Under Secretary of State for Political Affairs and the Under Secretary of State for Public Diplomacy and Public Affairs may at any time exercise any function or authority delegated by this delegation of authority.

Any act, executive order, regulation or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation or procedure as amended from time to time.

This delegation of authority shall be published in the **Federal Register**.

Dated: December 22, 2007.

R. Nicholas Burns,

Under Secretary of State for Political Affairs, Department of State.

[FR Doc. E7–3011 Filed 2–21–07; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: State Route 91 Improvements. The Project Begins on State Route 91/State Route 67/U.S. 321 West of State Route 362 and Extends to Just West of State Route-37 (U.S. 19E), Elizabethton, Carter County, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Carter County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Ms. Karen M. Brunelle, Planning and Program Management Team Leader, Federal Highway Administration—Tennessee Division Office, 640 Grassmere Park Road, Suite 112, Nashville, TN 37211. 615–781–5772.

SUPPLEMENTARY INFORMATION: An environmental assessment (EA) was prepared for the proposed project and completed on June 7, 2002. Since the June 7, 2002 EA approval, technical studies identified sensitive environmental features which warranted the consideration of additional alternatives beyond the ones studied for the western half of the original preferred alternative presented in the EA. The identified environmental issues could result in potential significant impacts. As a result, the FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to provide an improved corridor from west of State Route 362 to just west of State Route-37 (U.S. 19E), a distance of approximately four miles.

Alternatives to be considered include: (1) No-build; (2) a Transportation System Management (TSM) alternative; (3) a transit alternative; (4) one or more build alternatives that could include constructing a roadway on a new location, upgrading existing State Route-91, or a combination of both, and (5) other alternatives that may arise from public input. Public scoping meetings will be held for the project corridor. As part of the scoping process, federal, state, and local agencies and officials; private organizations; citizens; and interest groups will have an opportunity to identify issues of concern and provide input on the purpose and need for the project, range of alternatives, methodology, and the development of the Environmental Impact Statement. A Coordination Plan will be developed to include the public in the project development process. This plan will utilize the following outreach efforts to provide information and solicit input: newsletters, an internet Web site, e-mail and direct mail, informational meetings and briefings, public hearings, and other efforts as necessary and appropriate. A public hearing will be held upon completion of the Draft Environmental Impact Statement and public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to this proposed action are identified and taken into account, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA contact person identified above at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed program).

Issued on: February 15, 2007.

Karen M. Brunelle, P.E.,

Planning and Program Mgmt. Team Leader Nashville, TN.

[FR Doc. E7–2997 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highways in Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, I–405 Renton Nickel Improvement Project between Tukwila and Renton in the State of Washington. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on any of the listed highway projects will be barred unless the claim is filed on or before August 21, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Stephen Boch, Major Project Oversight Manager, Federal Highway Administration, Jackson Federal Building, 915 2nd Avenue, Room 3142, Seattle, Washington, 98174; telephone: (206) 220–7536; and e-mail: *Steve.Boch@fhwa.dot.gov.* The FHWA Washington Division's Oversight Manager's regular office hours are between 8 a.m. and 4:30 p.m. (Pacific Time). You may also contact Allison Ray, I–405 Environmental Manager, Washington State Department of Transportation (WSDOT), 600–108th Avenue NE, Suite 405, Bellevue, Washington, 98004; telephone: (425) 456–8500; and e-mail: *rayalli@wsdot.wa.gov.* The I–405 Corridor Program's regular office hours are between 8 a.m. and 5 p.m. (Pacific Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Washington: I–405 Renton Nickel Improvement Project. This project extends along I–405 from just east of the I–5/I–405 interchange in Tukwila north to the SR 169 interchange, and south on SR 167 to SW 41st Street. It consists of one new general-purpose lane in each direction along I–405 throughout most of the project limits. On SR 167, the project will extend the existing southbound HOV lane north to I–405 and add a southbound auxiliary lane from I–405 to the SW 41st Street off-ramp. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the October 2006 Environmental Assessment (EA) and the January 31, 2007 Finding of No Significant Impact (FONSI), and in other documents in the FHWA administrative record. The EA, FONSI and other documents in the FHWA administrative record are available by contacting the FHWA or WSDOT at the addresses provided above. The EA can be viewed and downloaded from the project Web site at *www.wsdot.wa.gov/Projects/i405/corridor/library/rentea.htm* or viewed at public libraries in the project area. Since Federal funding is not currently available for this project, an FHWA project number has not been established.

This notice applies to all Federal agency decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, as amended [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)]; Fish and Wildlife

Coordination Act [16 U.S.C. 661–667(d)]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 et seq.].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201–4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].

7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319); Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund [16 U.S.C. 4601–4604]; Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1)

Issued on: February 15, 2007.

Stephen P. Boch,

Major Project Oversight Manager, Seattle, Washington.

[FR Doc. E7–2989 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–221–83 and FI–100–83]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking (FI–221–83) and temporary regulation (FI–100–83), Indian Tribal Governments Treated as States for Certain Purposes (§§ 305.7701–1 and 305.7871–1).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Indian Tribal Governments Treated as States for Certain Purposes.

OMB Number: 1545–0823.

Regulation Project Number: FI–221–83 (notice of proposed rulemaking) and FI–100–83 (temporary regulation).

Abstract: These regulations relate to the treatment of Indian tribal governments as States for certain Federal tax purposes. The regulations provide that if the governing body of a tribe, or its subdivision, is not designated as an Indial tribal government or subdivision thereof for purpose of sections 7701(a)(40) and 7871 of the Internal Revenue Code, it may apply for a ruling to that effect from the Internal Revenue Service.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 25.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2912 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5471 (and Related Schedules)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5471 (and related schedules), Information Return of U.S. Persons With Respect To Certain Foreign Corporations.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return of U.S. Persons With Respect To Certain Foreign Corporations.

OMB Number: 1545–0704.

Form Number: 5471 (and related schedules).

Abstract: Form 5471 and related schedules are used by U.S. persons that have an interest in a foreign corporation. The form is used to report income from the foreign corporation. The form and schedules are used to satisfy the reporting requirements of Internal Revenue Code sections 6035, 6038 and 6046 and the regulations thereunder pertaining to the involvement of U.S. persons with certain foreign corporations.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and Individuals or households.

Estimated Number of Respondents: 28,380.

Estimated Time per Respondent: 155 hours, 3 minutes.

Estimated Total Annual Burden Hours: 4,400,232.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2914 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–C, U.S. Income Tax Return for Cooperative Associations.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Cooperative Associations.

OMB Number: 1545–2052.

Form Number: 1120–C.

Abstract: IRS Code section 1381 requires subchapter T cooperatives to file returns. Previously, farmers' cooperatives filed Form 990–C and other subchapter T cooperatives filed Form 1120. If the subchapter T cooperative does not meet certain requirements, the due date of their return is two and one-half months after the end of their tax year which is the same as the due date for all other corporations. The due date for income tax returns filed by subchapter T cooperatives who meet certain requirements is eight and one-half months after the end of their tax year. Cooperatives who filed their income tax returns on Form 1120 were considered to be late and penalties were assessed since they had not filed by the normal due date for Form 1120. Due to the assessment of the penalties, burden was placed on the taxpayer and on the IRS employees to resolve the issue. Proposed regulations (Reg–149436–04) published in the **Federal Register** (71 FR 43811), proposes that all subchapter T cooperatives will file Form 1120–C, U.S. Income Tax Return for Cooperative Associations.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 4000.

Estimated Time per Respondent: 107 hours, 36 minutes.

Estimated Total Annual Burden Hours: 430,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2916 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8282 and 8283

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8282, Donee Information Return (Sale, Exchange or Other Disposition of Donated Property) and Form 8283, Noncash Charitable Contributions.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Donee Information Return (Sale, Exchange or Other Disposition of Donated Property) (Form 8282) and Noncash Charitable Contributions (Form 8283).

OMB Number: 1545–0908.

Form Numbers: 8282 and 8283.

Abstract: Internal Revenue Code section 170(a)(1) and regulation section 1.170A–13(c) require donors of property valued over $5,000 to file certain information with their tax return in order to receive the charitable contribution deduction. Form 8283 is used to report the required information. Code section 6050L requires donee organizations to file an information return with the IRS if they dispose of the property received within two years. Form 8282 is used for this purpose.

Current Actions: There were 22 new lines added to Form 8282 due to major changes to form and 20 new lines added to Form 8283 for better filing figures.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or household and Business or other for-profit organizations.

Form 8282

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 9 hours, 24 minutes.

Estimated Total Annual Burden Hours: 9,400.

Form 8283

Estimated Number of Respondents: 3,143,666.

Estimated Time per Respondent: 2 hours, 29 minutes.

Estimated Total Annual Burden Hours: 7,796,292.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 13, 2007.

Allan M. Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E7–2918 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–107186–00]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–107186–00 (TD 9114), Electronic Payee Statements (§§ 1.6041–2, 1.6050S–2, 1.6050S–4, and 31.6051–1).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Electronic Payee Statements.

OMB Number: 1545–1729.

Regulation Project Number: REG–107186–00.

Abstract: In general, under these regulations, a person required to furnish a statement on Form W–2 under Code sections 6041(d) or 6051, or Forms 1098–T or 1098–E under Code section 6050S, may furnish these statements electronically if the recipient consents to receive them electronically, and if the person furnishing the statement (1) makes certain disclosures to the recipient, (2) annually notifies the recipient that the statement is available on a Web site, and (3) provides access to the statement on that Web site for a prescribed period of time.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individual or households.

Estimated Number of Responses/Recordkeepers: 28,449,495.

Estimated Average Annual Burden per Response/Recordkeeper: 6 minutes.

Estimated Total Annual Reporting/Recording Hours: 2,844,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2920 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–QDT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–QDT, U.S. Estate Tax Return for Qualified Domestic Trusts.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Estate Tax Return for Qualified Domestic Trusts.

OMB Number: 1545–1212.

Form Number: 706–QDT.

Abstract: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue Code section 2056A. The IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

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

Estimated Number of Respondents: 80.

Estimated Time per Respondent: 4 hours, 28 minutes.

Estimated Total Annual Burden Hours: 357.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2922 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2004–19

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2004–19, Probable or Prospective Reserves Safe Harbor.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Probable or Prospective Reserves Safe Harbor.

OMB Number: 1545–1861.

Revenue Procedure Number: Revenue Procedure 2004–19.

Abstract: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under § 611 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Annual Average Time Per Respondent: 30 minutes.

Estimated Total Annual Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2924 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INT–362–88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–362–88 (TD 8618), Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation (§§ 1.954–1 and 1.954–2).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation.

OMB Number: 1545–1068.

Regulation Project Number: INTL–362–88.

Abstract: A U.S. shareholder of a controlled foreign corporation is subject to current U.S. taxation on the subpart F income of the foreign corporation, which consists of several categories of income. The election and recordkeeping requirements in the regulation are necessary to exclude certain high-taxed or active business income from subpart F income or to include certain income in the appropriate category of subpart F

income. The record-keeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/ Recordkeepers: 50,500.

Estimated Time per Respondent/ Recordkeeper: 1 hour.

Estimated Total Annual Reporting/ Recordkeeping Hours: 50,417.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2925 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–20

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–20, Certification for No Information Reporting on the Sale of a Principal Residence.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certification for No Information Reporting on the Sale of a Principal Residence.

OMB Number: 1545–1592.

Revenue Procedure Number: Revenue Procedure 98–20.

Abstract: This revenue procedure sets forth the acceptable form of the written assurances (certification) that a real estate reporting person must obtain from the seller of a principal residence to except such sale or exchange from the information reporting requirements for real estate transactions under section 6045(e)(5) of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

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

Estimated Number of Respondents: 2,300,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours for Respondents: 383,000.

Estimated Number of Recordkeepers: 90,000.

Estimated Time Per Recordkeeper: 25 minutes.

Estimated Total Annual Burden Hours for Recordkeepers: 37,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2926 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[TD 6629, LR–7]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–7 (TD 6629). Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands (§ 1.934–1).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION: *Title:* Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands.

OMB Number: 1545–0782.

Regulation Project Number: TD 6629.

Abstract: Internal Revenue Code section 934(a) (1954 code) provides that the tax liability incurred to the Virgin Islands shall not be reduced except to the extent provided in Code section 934(b) and (c). Taxpayers applying for tax rebates or subsidies under section 934 of the 1954 Code must provide certain information in order to obtain these benefits.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

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

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 22 minutes.

Estimated Total Annual Burden Hours: 184.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2927 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 89–61

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 89–61, Imported Substances; Rules for Filing a Petition.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Imported Substances; Rules for Filing a Petition.

OMB Number: 1545–1117.

Notice Number: Notice 89–61.

Abstract: Section 4671 of the Internal Revenue Code imposes a tax on the sale or use of certain imported taxable substances by the importer. Code section 4672 provides an initial list of taxable substances and provides that importers and exporters may petition the Secretary of the Treasury to modify the list. Notice 89–61 sets forth the procedures to be followed in petitioning the Secretary.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the

quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 13, 2007.

Allan M. Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E7–2929 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8833

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).

OMB Number: 1545–1354.

Form Number: 8833.

Abstract: Taxpayers who are required by Internal Revenue Code section 6114 to disclose a treaty-based return position use Form 8833 to disclose that position. The form may also be used to make the treaty-based return position disclosure required by regulation § 301.770(b)–7(b) for ''dual resident'' taxpayers. Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 4,000.

Estimated Time Per Respondent: 6 hours, 25 minutes.

Estimated Total Annual Burden Hours: 25,640.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2007.

Glenn Kirkland,

IRS Reports Clearance Office.

[FR Doc. E7–2930 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–105170–97 and REG–112991–01]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulations, REG–105170–97 (TD 8930) and REG–112991–01 (TD 9104), Credit for Increasing Research Activities (§ 1.41–8(b)).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Increasing Research Activities.

OMB Number: 1545–1625.

Regulation Project Number: REG–105170–97 and REG–112991–01.

Abstract: These final regulations relate to the computation of the credit under section 41(c) and the definition of *qualified research* under section 41(d). These regulations are intended to provide (1) Guidance concerning the requirements necessary to qualify for the credit for increasing research activities, (2) guidance in computing the credit for increasing research activities, and (3) rules for electing and revoking the election of the alternative incremental credit.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5.

Estimated Time per Respondent: 50 hours.

Estimated Total Annual Burden Hours: 250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2931 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–260–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–260–82 (TD 8449), Election, Revocation, Termination, and Tax Effect of Subchapter S Status (§§ 1.1362–1 through 1.1362–7).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election, Revocation, Termination, and Tax Effect of Subchapter S Status.

OMB Number: 1545–1308.

Regulation Project Number: PS–260–82.

Abstract: Section 1362 of the Internal Revenue Code provides for the election, termination, and tax effect of subchapter S status. Sections 1.1362–1 through 1.1362–7 of this regulation provides the specific procedures and requirements necessary to implement Code section 1362, including the filing of various elections and statements with the Internal Revenue Service.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 133.

Estimated Time Per Respondent: 2 hours, 25 minutes.

Estimated Total Annual Burden Hours: 322.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2933 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–EO

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–EO, Exempt Organization Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exempt Organization Declaration and Signature for Electronic Filing.

OMB Number: 1545–1879.

Form Number: 8453–EO.

Abstract: Form 8453–EO is used to enable the electronic filing of Forms 990, 990–EZ, or 1120–POL.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 5 hours, 14 minutes.

Estimated Total Annual Burden Hours: 1,046.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2007.

Glenn Kirkland,

IRS Reports Clearance Office.

[FR Doc. E7–2936 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–955–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–955–86 (TD 8350), Requirements for Investments to Qualify Under Section 936(d)(4) As Investments in Qualified Carribean Basin Countries (§ 1.936–10(c)).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *R.Joseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Requirements for Investments to Qualify Under Section 936(d)(4) As Investments in Qualified Carribean Basin Countries.

OMB Number: 1545–1138.

Regulation Project Number: INTL–955–86.

Abstract: This regulation relates to the requirements that must be met for an investment to qualify under Internal Revenue code section 936(d)(4) as an investment in qualified Caribbean Basin countries. Income that is qualified possession source investment income is entitled to a quasi-tax exemption by reason of the U.S. possessions tax credit under Code section 936(a) and substantial tax exemptions in Puerto Rico. Code section 936(d)(4)(C) places certification requirements on the recipient of the investment and the qualified financial institution; and recordkeeping requirements on the financial institution and the recipient of the investment funds to enable the IRS to verify that the investment funds are being used properly and in accordance with the Caribbean Basin Economic Recovery Act.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Recordkeepers: 50.

Estimated Time Per Recordkeeper: 30 hours.

Estimated Total Annual Recordkeeping Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2938 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8873

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8873, Extraterritorial Income Exclusion.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Extraterritorial Income Exclusion.

OMB Number: 1545–1722.

Form Number: 8873.

Abstract: The FSC and Extraterritorial Income Exclusion Act of 2000 added section 114 to the Internal Revenue Code. Section 114 provides for an exclusion from gross income for certain transactions occurring after September 30, 2000, with respect to foreign trading gross receipts. Form 8873 is used to compute the amount of extraterritorial income excluded from gross income for the tax year.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 750,000.

Estimated Time Per Respondent: 25 hours, 27 minutes.

Estimated Total Annual Burden Hours: 19,087,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2940 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1128

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1128, Application to Adopt, Change, or Retain a Tax Year.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application to Adopt, Change, or Retain a Tax Year.

OMB Number: 1545–0134.

Form Number: 1128.

Abstract: Section 442 of the Internal Revenue Code requires that a change in a taxpayer's annual accounting period be approved by the Secretary. Under regulation section 1.442–1(b), a taxpayer must file Form 1128 to secure prior approval unless the taxpayer can automatically make the change. The IRS uses the information on the form to determine whether the application should be approved.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals, Not-for-profit institutions, and Farms.

Estimated Number of Respondents: 9,788.

Estimated Time per Respondent: 23 hours, 31 minutes.

Estimated Total Annual Burden Hours: 230,119.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2943 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8038, 8038–G, and 8038–GC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038–G, Information Return for Tax-Exempt Governmental Obligation, and Form 8038–GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return for Tax-Exempt Private Activity Bond Issues (Form 8038), Information Return for Tax-Exempt Governmental Obligation (Form 8038–G), and Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales (Form 8038–GC).

OMB Number: 1545–0720.

Form Number: 8038, 8038–G, and 8038–GC.

Abstract: Issuers of state or local bonds must comply with certain information reporting requirements contained in Internal Revenue Code section 149 to qualify for tax exemption. The information must be reported by the issuers about bonds issued by them during each preceding calendar quarter. Forms 8038, 8038–G, and 8038–GC are used to provide the IRS with the information required by Code section 149 and to monitor the requirements of Code sections 141 through 150.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local or Tribal Governments and not-for-profit institutions.

Estimated Number of Respondents: 3,816.

Estimated Time Per Response: 34 hours, 25 minutes.

Estimated Total Annual Burden Hours: 293,900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2945 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8809

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8809, Request for Extension of Time To File Information Returns.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at

Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Request for Extension of Time To file Information Returns.

OMB Number: 1545–1081.

Form Number: Form 8809.

Abstract: Form 8809 is used to request an extension of time to file Forms W–2, W–2G, 1042–S, 1098, 1099, 5498, or 8027. The IRS reviews the information contained on the form to determine whether an extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

Estimated Number of Respondents: 50,000.

Estimated Time per Respondent: 3 hours, 15 minutes.

Estimated Total Annual Burden Hours: 162,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2946 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4768

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

OMB Number: 1545–0181.

Form Number: 4768.

Abstract: Form 4768 is used to request an extension of time to file an estate (and generation-skipping) tax return and/or to pay the estate (and generation-skipping) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Current Actions: There have been changes to the layout of the form since our last submission. These changes have resulted in a decrease in burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 18,500.

Estimated Time per Respondent: 1 hour, 40 minutes.

Estimated Total Annual Burden Hours: 30,710.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2947 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–255–81]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–255–81 (T.D. 8002), Substantiation of Charitable Contributions (§ 1.170A–13).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Substantiation of Charitable Contributions.

OMB Number: 1545–0754.

Regulation Project Number: LR–255–81.

Abstract: This regulation provides guidance relating to substantiation requirements for charitable contributions. Section 1.170A–13 of the regulation requires donors to maintain receipts and other written records to substantiate deductions for charitable contributions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

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

Estimated Number of Respondents: 26,000,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 2,158,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2949 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1098–E

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1098–E, Student Loan Interest Statement.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Student Loan Interest Statement.

OMB Number: 1545–1576.

Form Number: Form 1098–E.

Abstract: Section 6050S(b)(2) of the Internal Revenue Code requires persons (financial institutions, governmental units, etc.) to report $600 or more of interest paid on student loans to the IRS and the students. Form 1098–E is used for this purpose.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organzations, not-for-profit institutions, and State, local or tribal governments.

Estimated Number of Respondents: 8,761,303.

Estimated Time per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 1,051,357.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of

public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2951 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8879–PE

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8879–PE, IRS e-file Signature Authorization for Form 1065.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization for Form 1065.

OMB Number: 1545–2042.

Form Number: Form 8879–PE.

Abstract: New Modernized e-file Form for partnerships under Internal Revenue Code sections 6109 and 6103.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 4 hours 3 minutes.

Estimated Total Annual Burden Hours: 2,025.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2952 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–870–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–870–89, Earnings Stripping (Section 163(j)).

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Earnings Stripping (Section 163(j)).

OMB Number: 1545–1255.

Regulation Project Number: INTL–870–89.

Abstract: Internal Revenue Code section 163(j) concerns the limitation on the deduction for certain interest paid by a corporation to a related person. This provision generally does not apply to an interest expense arising in a taxable year in which the payer corporation's debt-equity ratio is 1.5 to 1 or less. Regulation section § 1.163(j)–5(d) provides a special rule for adjusting the basis of assets acquired in a qualified stock purchase. This rule allows the taxpayer, in computing its debt-equity ratio, to elect to write off the basis of the stock of the acquired corporation over a fixed stock write-off period, instead of using the adjusted

basis of the assets of the acquired corporation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,300.

Estimated Time per Respondent: 31 minutes.

Estimated Total Annual Burden Hours: 1,196.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 7, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2955 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–ND

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–ND, Return for Nuclear Decommissioning Funds and Certain Related Persons.

DATES: Written comments should be received on or before April 23, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Return for Nuclear Decommissioning Funds and Certain Related Persons.

OMB Number: 1545–0954.

Form Number: 1120–ND.

Abstract: A nuclear utility files Form 1120–ND to report the income and taxes of a fund set up by the public utility to provide cash to decommission the nuclear power plant. The IRS uses Form 1120–ND to determine if the fund income taxes are correctly computed and if an entity related to the fund or the nuclear utility must pay taxes on self-dealing, as required by Internal Revenue Code section 4951.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondents: 32 hours, 35 minutes.

Estimated Total Annual Burden Hours: 3,259.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2956 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The TAP will be discussing issues pertaining to increasing compliance and lessening the burden for Small Business/Self Employed individuals.

DATES: The meeting will be held Tuesday, March 27, 2007.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

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 Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be held Tuesday, March 27, 2007 from 12:30 pm ET to 1:30 pm ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–3557, or write to Marisa Knispel, TAP Office, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Marisa Knispel. Ms. Knispel can be reached at 1–888–912–1227 or 718–488–3557, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: February 13, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2932 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Ad Hoc 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, March 8, 2007 at 2 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Inez De Jesus at 1–888–912–1227, or 954–423–7977.

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 Ad Hoc Committee of the Taxpayer Advocacy Panel will be held Thursday, March 8, 2007 at 2 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez De Jesus, 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 Inez De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: February 13, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2934 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 1 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 Tuesday, March 20, 2007.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: An open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, March 20, 2007 from 9 a.m. ET to 10 a.m. ET via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Audrey Y. Jenkins. Ms. Jenkins can be reached at 1–888–912–1227 or 718–488–2085, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: February 13, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2937 Filed 2–21–07; 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 Friday, March 9, 2007.

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 Friday, March 9, 2007 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: February 13, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2941 Filed 2–21–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VA FL 22–909)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each existing collection in use without an OMB control number, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the beginning date to start certain dependents of veterans receiving Survivors' and Dependents' Educational Assistance (DEA) benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 23, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–New (VA FL 22–909)'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Dependents' Educational Assistance (DEA) Election Request, VA Form Letter 22–909.

OMB Control Number: 2900–New (VA FL 22–909).

Type of Review: Existing collection in use without an OMB control number.

Abstract: VA must notify eligible dependents of veterans receiving DEA benefits of their option to elect a beginning date to start their DEA benefits. VA will use the data collected on VA Form Letter 22–909 to determine the appropriate amount of benefit is payable to the claimant.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,718 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Annual Responses: 22,872.

Dated: February 7, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst Records Management Service.

[FR Doc. E7–2979 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0578]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 26, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0578'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0578.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Health Care for Certain Children of Vietnam Veterans—Spina Bifida and Covered Birth Defects—Regulation.

b. Claim for Miscellaneous Expenses, VA Form 10–7959e.

OMB Control Number: 2900–0578.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA's medical regulations 38 CFR part 17 (17.900 through 17.905) establish regulations regarding provision of health care for women Vietnam veterans' children born with spina bifida and certain other covered birth defects. The information collected will be used to determine whether to approve requests for preauthorization of certain health care services and benefits for children of Vietnam veterans; the appropriateness of billings for such services; and to make decisions during the review and appeal process concerning the child's health care.

b. Beneficiaries complete VA Form 10–7959e to claim payment/reimbursement of expenses related to spina bifida and certain covered birth defects. Health care providers complete standard billing forms such as: Uniform Billing-Forms (UB) 92, and HCFA 1500, Medicare Health Insurance Claims Form. Without the requested information VA will be unable to determine the correct amount to reimburse providers for their services or beneficiaries for covered expenses.

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 November 1, 2006, at page 64339.

Affected Public: Individuals or households, business or other for-profit, and not for profit institutions.

Estimated Total Annual Burden: 3,400 hours.

Estimated Average Burden per Respondent: 6½ minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,600.

Estimated Total Annual Responses: 31,400.

Dated: February 7, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst Records Management Service.

[FR Doc. E7–2982 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0518]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 26, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0518'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0518.''

SUPPLEMENTARY INFORMATION:

Title: Income Verification, VA Form 21–0161a.

OMB Control Number: 2900–0518.

Type of Review: Existing collection in use without an OMB control number.

Abstract: VA Form 21–0161a is completed by employers of VA beneficiaries who have been identified has having inaccurately reported their income to VA. VA uses the data collected to determine the beneficiary's entitlement to income dependent benefits.

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 15, 2006 at pages 46980–46981.

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Annual Burden: 15,000 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 30 minutes.

Estimated Annual Responses: 30,000.

Dated: February 8, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst Records Management Service.

[FR Doc. E7–2983 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for applications for assistance under the Technical Assistance Grant component of VA's Homeless Providers Grant and Per Diem Program. This notice contains information concerning the program, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Field Office, by 4 p.m. Eastern Time on April 4, 2007. Applications submitted through Grants.gov will be the only electronic format accepted. Applications may not be sent by facsimile (FAX) or other electronic means (e-mail). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. This includes applications through Grants.gov. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by electronic transmission problems, unanticipated delays or other delivery-related problems.

FOR A COPY OF THE APPLICATION PACKAGE: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. In this package is information on Grants.gov submission should applicants so desire. For a document relating to the VA's Homeless Providers Grant and Per Diem Program, see the Final Rule codified at 38 CFR Part 61.0.

SUBMISSION OF APPLICATION: An original completed and collated grant application (plus three copies) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Dr. Guy Liedke, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 North 46th Street, Suite C–200, Tampa FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible non-profit entities with expertise in preparing grant applications relating to the provision of assistance for homeless veterans to: Provide technical assistance to those non-profit community-based groups with experience in providing assistance to homeless veterans in order to help such groups apply for grants under the Final Rule, published in the **Federal Register**, September 26, 2003, or to

apply for other grants from any source for addressing the problems of homeless veterans.

The Veterans Benefit, Health Care and Information Technology Act of 2006, Public Law 109–461, § 703 and § 707 respectively, authorizes this program. Funding applied for under this notice may be used for: (a) Group or individual seminars providing general instructions concerning grant applications; (b) Group or individual seminars providing instructions for applying for a specific grant; or (c) Group or individual instruction for preparing analyses to be included in a grant application. Seminars (course of instruction) may be delivered in electronic, face-to-face and correspondence methodologies (*e.g.*, Internet-based training, video teleconferencing, computer media such as CD or disk).

Entities that are interested in providing technical assistance should be aware that historically the Grant and Per Diem Program office receives over 1,200 nationwide inquiries per Notice of Fund Availability (NOFA) from prospective applicants. It is estimated that an additional 1,000 inquiries are received nationwide at VA Medical Center Homeless Programs. From these inquiries, VA has seen an increase in the number of applicants each year. Approximately 100 to 300 applications per funding round have been received in past responses to (NOFAs under VA's Homeless Providers Grant and Per Diem Program. Additionally, faith-based organizations that are capable of providing supported housing and/or supportive service center services for homeless veterans have figured prominently into the mix of non-profit organizations seeking funding. Those entities applying to provide technical assistance should consider not only the numbers, but the diversity of the service providers seeking assistance when establishing their service plans.

The applicant for this funding will be expected to develop an integrated technical assistance plan, using funds for purposes as specified in this NOFA, the objectives of the program rules and regulations, as well as the intent of Public Law 107–95 to offer technical assistance to agencies in their-specified target area. Applicants should take note that they will be held accountable to provide to VA documentation that demonstrates the objectives of technical training are being met throughout the course of the award cycle, and documentation that clearly demonstrates the completion of technical assistance objectives were met, cumulatively, at the end of the funding period. Also, VA intends to conduct both periodic fiscal and performance reviews of the awarded agency(s).

The technical assistance should not only raise the awareness of providers regarding the availably of funds to assist homeless veterans, but also increase providers' proficiency in applying for and managing funds to assist homeless veterans. Applicants should take the aforementioned into consideration when developing a technical assistance plan. Outcomes measure that are specific and measurable should be an integral part of the technical assistance plan that is submitted in the application.

Grant applicants may not receive assistance to replace funds provided by any State or local government for the same purpose.

Authority: VA's Homeless Providers Grant and Per Diem Program and Special Need Grant are authorized by Public Law 109–461, § 703 and § 707 respectively, the law is known as the Veterans Benefit, Health Care and Information Technology Act of 2006, codified at 38 U.S.C. 2011, 2012, 2061, 2064. The program is implemented by the Final Rule codified at 38 CFR Part 61.0. The Final Rule was published in the **Federal Register** on September 26, 2003, the regulations can be found in their entirety in 38 CFR 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $2 million is available for the technical assistance grant component of this program. Funding will be for a period not to exceed 2 years from the date of award. Not more than $500,000.00 per year per technical assistance provider will be awarded.

Funding Priorities: With increased oversight of grantees in the VA Grant and Per Diem Program, as well as all Federal programs, it is imperative that when preparing grant applications, potential applicants are provided technical assistance on what is necessary to ensure proper compliance with the grant application as written. In order to target specific voids of information as related by past Grant and Per Diem applicants, VA establishes the following funding priorities:

Funding priority 1. Eligible entities that will provide all of the following specific technical assistance activities annually in the quantity indicated or greater per year will be placed in funding priority one.

The activities are:

(a) 25 national presentations to potential grantees with regard to providing measurable objectives;

(b) 25 one-on-one project planning sessions that are consistent with the ability of the grantee to meet their objectives and deliver the housing and or services as stated in their grant applications;

(c) 12 on-site grant management systems reviews with emphasis on proper grant project outcome documentation; and

(d) 25 national presentations to non-profit grantees and potential grantees regarding Office of Budget and Management (OMB) grant management circulars.

With this criteria, of those eligible entities in the first funding priority that are legally fundable, the highest scoring applicant will be funded first, followed by the second highest scoring applicant until $2 million is funded. Of this group, not more than one (1) Technical assistance grant will be awarded to the same technical assistance recipient (defined by tax identification number). Using the guidance above, should the goal not be met and if funding is still available, remaining funding will go to the second funding priority.

Funding priority 2. Should funding still be available, eligible entities providing general technical assistance activities as stated in the regulations will be placed in the second funding priority. Of this group, not more than one (1) Technical assistance grant will be awarded to the same technical assistance recipient (defined by tax identification number). Of those eligible entities in the second funding priority, that are legally fundable, the highest scoring applicants will be funded first until funding is expended.

Application Requirements: The specific grant application requirements will be specified in the application package. The package includes all required forms and certifications. Selections will be made based on criteria described in the application. Applicants who are selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the time in which to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other Grant and Per Diem applicants.

Dated: February 16, 2007.

R. James Nicholson,

Secretary of Veterans Affairs.

[FR Doc. E7–3020 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs is announcing the availability of funds for applications for assistance under the ''Per Diem Only'' component of VA's Homeless Providers Grant and Per Diem Program. This Notice contains information concerning the program, funding priorities, application process and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Field Office, by 4 p.m. Eastern Time on *April 4, 2007.* Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

For a copy of the Application Package: Download directly from VA's Homeless Providers Grant and Per Diem Program webpage at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. In this package is information on Grants.gov submission should applicants so desire. For a document relating to the VA Homeless Providers Grant and Per Diem Program, see the Final Rule published in the **Federal Register** on September 26, 2003.

Submission of Application: An original completed and collated grant application (plus three copies) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field Office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Dr. Guy Liedke, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible programs that have not previously applied for or received per diem in connection with a grant (*see* 38 CFR 61.1 through 61.82). Funding applied for under this Notice is authorized by Pub. L. 109–461, § 703, known as the Veterans Benefit, Health Care and Information Technology Act of 2006, *codified at 38* U.S.C. 2011, 2012, 2061, 2064, and may be used for aid for supportive housing. Service Centers will not be funded in this NOFA. Funding will be in the form of per diem payments issued to eligible entities for the period beginning on July 1, 2007, and are subject to availability of funds and the recipients' compliance with 38 CFR 61.1 through 61.82. For eligibility criteria please refer to Final Rule published in the **Federal Register** on September 26, 2003, 38 CFC 61.30, 61.31, and 61.32.

As these ''Per Diem Only'' projects are currently serving homeless veterans, VA expects that it will take no longer than 90 days from the date of award for projects to be inspected and become operational for receiving per diem. Failure to meet the 90-day milestone may result in the grant being terminated.

Capital grant recipients who received capital grant funding under VA's Homeless Providers Grant and Per Diem Program in years 1994 through 2006 for acquisition, renovation or new construction should not respond to this NOFA. Per diem for those portions of their programs that were created with capital grant funds is requested in the capital grant application and paid at the time of capital grant project completion and inspection.

Previous ''Per Diem Only'' recipients that renewed their PDO grants in 2005 need not reapply. VA is pleased to issue this Notice of Fund Availability (NOFA) for the Homeless Providers Grant and Per Diem Program as part of the effort to end chronic homelessness among our nation's veterans. The Department expects to create 1000 beds under this NOFA.

Funding available under this NOFA is being offered to help offset the operating expenses of existing state and local governments, Indian Tribal governments, faith-based, and community-based organizations that are capable of providing supported housing and/or supportive service center services for homeless veterans. The District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, may be considered eligible entities under the definition of ''State'' in the 38 CFR 61.1 Definitions. It should be noted that VA payment is limited to the applicant's cost of care per eligible veteran, minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per-day rate VA pays for State Home Domiciliary care. Awardees will be required to support their request for per diem payment with adequate fiscal documentation as to program income and expenses.

Interested organizations should know that the vast majority of homeless veterans in this country suffer from mental illness or substance abuse disorders or are dually diagnosed with both mental illness and substance abuse disorders. In addition, many homeless veterans have serious medical problems. Collaboration with VA medical centers, VA community-based outpatient clinics or other health care providers is an important aspect of assuring that homeless veterans have access to appropriate health care services.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless veterans and outcomes associated with the services provided in grant and per diem-funded programs. VA is also implementing new procedures to further this effort. Applicants should be aware of the following:

All awardees that are conditionally selected in response to *this NOFA* must meet the Life Safety Code of the National Fire and Protection Association as it relates to their specific facility. VA will conduct an inspection prior to awardees being able to submit request for payment to ensure this requirement is met.

Each per diem-funded program will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless veterans in the per diem-funded program.

Monitoring will include at least an annual review of each per diem program's progress toward meeting internal goals and objectives in helping veterans attain housing stability, adequate income support, and self sufficiency as identified in each per diem program's original application.

Monitoring will also include a review of the agency's income and expenses as they relate to this project to ensure per diem payment is accurate.

Each per diem-funded program will participate in VA's national program monitoring and evaluation system administered by VA's Northeast Program Evaluation Center (NEPEC). It is the intention of VA to develop specific performance targets with respect to housing for homeless veterans. NEPEC's monitoring procedures will be used to determine successful accomplishment of these housing outcomes for each per diem-funded program.

VA encourages all eligible and interested entities to review this NOFA and consider applying for funds to provide service for homeless veterans.

Authority: VA's Homeless Providers Grant and Per Diem Program is authorized by Pub. L. 109–461, § 703, known as the Veterans Benefit, Health Care and Information Technology Act of 2006, *codified* at 38 U.S.C. 2011, 2012, 2061, 2064. The program is implemented by the Final Rule codified at 38 CFR Part 61.0. The Final Rule was published in the **Federal Register** on September 26, 2003, the regulations can be found in their entirety in 38 CFR 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $10 million annually is available for the per diem only award component of this program. This funding is subject to the availability of funds, and will be available so long as recipients meet the requirements of 38 CFR 61.1 through 61.82.

Funding Priorities: VA establishes the following funding priorities in order to bolster capacity for populations in areas that are underserved by the Homeless Providers Grant and Per Diem Program. Specifically, VA is seeking programs that are not necessarily women-specific, but in the course of daily operations serve women veterans with care of dependent children, and provide them with an opportunity to secure funding to offer services to this population. VA is not seeking to create large women-specific programs, rather small niche housing and services for this underserved population in both urban and rural areas.

Example: In the course of providing daily services a homeless provider serves 2–5 homeless veteran women with care of dependent children. This provider would create a small program that would supply appropriate housing and services to this population.

In this round of ''Per Diem Only'' funding, VA expects to award funding for approximately 1,000 community-based supported housing beds.

Funding priority 1. Those programs that are not necessarily women-specific, but in the course of daily operations serve women veterans with care of dependent children and will create a niche program to serve this population. The applicant must clearly demonstrate, in the need section of the application, the number of beds for the women veterans and the number of beds for their dependent children. With this in mind, applicants are reminded that VA may only pay per diem for the women veteran—not the dependent children. Based on the total number of beds expected to be funded in this round, approximately 150 of the 1,000 beds expected to be funded) from eligible entities whose projects will provide housing and services specifically to homeless women veterans, with care of dependent children will be selected as the first funding priority. Of those eligible entities in the first funding priority, that are legally fundable, the highest scoring applicants will be funded first, followed by the second highest scoring applicants, until enough projects totaling approximately 150 beds for women are identified for funding. Applicants not selected in this priority will be placed in the second funding priority. Should the projected 150 bed total not be reached, remaining beds and funding will be placed in the second funding priority.

Funding priority 2. Finally, VA is encouraging interested, state and local governments, Indian tribal governments, faith-based, and community-based organizations to apply for funding under this NOFA to serve all homeless veterans populations. Based on the total number of beds expected to be funded in this round, approximately 850 beds will be funded in this priority. Of those eligible entities that are legally fundable, the highest-ranked applications for which funding is available, will be selected for eligibility to receive per diem payment in accordance with their ranked order until enough projects totaling approximately 850 beds are identified for funding or until funding is expended.

Methodology: VA will review all non-capital grant recipients in response to this notice of funding availability. Then, VA will group the applicants into the funding priorities categories. Applicants will then be ranked within their respective funding category based on score and any ranking criteria set forth in that funding category, only if the applicant scores at least 500 cumulative points from paragraphs (b) (c) (d) (e) and (i) of 38 CFR 61.13.

The highest-ranked application for which funding is available, within the highest funding category, will be conditionally selected for eligibility to receive per diem payment in accordance with their ranked order until VA reaches the projected bed totals for each category. If funds are still available after selection of those applications in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in the Interim Final Rule Sec. 61.32.

Application Requirements: The specific grant application requirements will be specified in the application package. The package includes all required forms and certifications. Selections will be made based on criteria described in the application, Interim Final Rule, and NOFA. Applicants who are selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: February 16, 2007.

R. James Nicholson,

Secretary of Veterans Affairs.

[FR Doc. E7–3024 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for currently operational VA Homeless Providers Grant and Per Diem (GPD) providers to make applications for assistance under the Special Need Grant Component of VA's GPD Program. The focus of this Notice of Fund Availability (NOFA) is to encourage new applicants to create new projects that will deliver services to the homeless Special Need veteran population. This Notice contains information concerning the program, application process, and amount of funding available. Note: Current Special Need providers should not respond to this NOFA. Renewal funding is being offered under a separate NOFA.

DATES: An original completed grant application (plus three completed collated copies) for each project seeking assistance under the VA's GPD Program Special Need Grant Component must be received in the Grant and Per Diem Field Office, by 4:00 p.m. Eastern Time on April 4, 2007. Applications submitted through Grants.gov will be the only electronic format accepted. Applications may not be sent by facsimile (FAX) or other electronic means (e-mail). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. This includes applications through Grants.gov. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by electronic transmission problems, unanticipated delays or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. In this package is information on Grants.gov submission should applicants so desire. For a document relating to the VA's GPD Program, see the Final Rule codified at 38 CFR Part 61.0.

Submission of Application: An original completed and collated grant application (plus three copies) for each project must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field Office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration. If all materials are not included in the application package, it may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Dr. Guy Liedke, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's GPD Program for currently operational Grant and Per Diem providers to obtain grant assistance with additional operational costs that would not otherwise be incurred but for the fact that the recipient is providing supportive housing beds and services for the Special Needs of the following homeless veteran populations:

Seriously Mentally Ill
Women, including women who have care of minor dependents; Frail elderly; or
Terminally Ill.

Definitions of these populations are contained in 38 CFR 61.1 Definitions. Eligible applicants should review these definitions to ensure their proposed populations meet the specific requirements.

VA is pleased to issue this NOFA for the Homeless Providers Grant and Per Diem Program as part of the effort to end chronic homelessness among our Nation's veterans. Funding applied for under this Notice may be used for: The provision of service, operation, or personnel to facilitate the following with regard to the targeted group:

Seriously Mentally Ill:

(1) Help participants join in and engage with the community;

(2) Facilitate reintegration with the community and provide services that may optimize reintegration such as life-skills education, recreational activities, and follow-up case management;

(3) Ensure that participants have opportunities and services for re-establishing relationships with family;

(4) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants, either directly or through referral, to obtain other services particularly relevant for a seriously mentally ill population, such as vocational development, benefits management, fiduciary or money management services, medication compliance, and medication education.

Women, including women who have care of minor dependents:

(1) Ensure transportation for women and their children, especially for health care and educational needs;

(2) Provide directly or offer referrals for adequate and safe child care;

(3) Ensure children's health care needs are met, especially age-appropriate wellness visits and immunizations; and

(4) Address safety and security issues including segregation procedures from other program participants if deemed appropriate.

Frail Elderly:

(1) Ensure the safety of the residents in the facility to include preventing harm and exploitation;

(2) Ensure opportunities to keep residents mentally and physically agile to the fullest extent through the incorporation of structured activities, physical activity, and plans for social engagement within the program and in the community;

(3) Provide opportunities for participants to address life transitional issues and separation and/or loss issues;

(4) Provide access to assistance devices such as walkers, grippers, or other devices necessary for optimal functioning;

(5) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(6) Provide opportunities for participants either directly or through referral for other services particularly relevant for the frail elderly, including services or programs addressing emotional, social, spiritual, and generative needs.

Terminally Ill:

(1) Help participants address life-transition and life-end issues;

(2) Ensure that participants are afforded timely access to hospice services;

(3) Provide opportunities for participants to engage in ''tasks of dying,'' or activities of ''getting things in order'' or other therapeutic actions that help resolve end-of-life issues and enable transition and closure;

(4) Ensure adequate supervision including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants either directly or through referral for other services, particularly relevant for terminally ill such as legal counsel and pain management.

VA is seeking, through this NOFA, to provide an opportunity to currently operational Grant and Per Diem providers that are located in areas where Special Need project collaboration with the local VA is not feasible due to geographic distance, in small urban or rural areas, or where the Special Need population is relatively small, yet in need of these services. VA is seeking these new projects to create a unique service niche for these less addressed Special Needs veteran populations.

No part of a Special Need grant may be used for any purpose that would change significantly the scope of the specific grant and per diem project for which a Capital Grant and Per Diem was awarded. As a part of the review process, VA will review the original

project listed in the Special Need application to ensure significant scope changes do not occur—displacing other homeless veteran populations. VA may reject for Special Need Funding, those applications that significantly alter the original scope (38 CFR 61.62).

A separate Special Need application is required for each previously funded Grant and Per Diem project (identified by unique project number; see Application Requirements in this NOFA).

Special Need funding may not be used for capital improvements or to purchase vans or real property. However, the leasing of vans or real property may be acceptable. Questions regarding acceptability should be directed to VA's Grant and Per Diem Field Office (at the number listed above). Applicants may not receive Special Need assistance to replace funds provided by any Federal, state or local government agency or program to assist homeless persons.

Authority: VA's Homeless Providers Grant and Per Diem Program and Special Need Grant are authorized by Public Law 109–461, § 703 and § 706 respectively, the law is known as the Veterans Benefit, Health Care and Information Technology Act of 2006, codified at 38 U.S.C. 2011, 2012, 2061, 2064. The program is implemented by the Final Rule codified at 38 CFR Part 61.0. The final rule was published in the **Federal Register** on September 26, 2003, the regulations can be found in their entirety in 38 CFR 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $6 million is available for Special Need GPD grant component of this program. Funding will be for a period beginning on January 1, 2008 and ending on September 30, 2009. Based on the amount of funding available the maximum allowable funding to any one operational Grant and Per Diem Special Need recipient under this NOFA will be $450,000.00 per project, for the specified time. The goal is to create new Special Need services for these homeless veterans' populations.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless veterans and outcomes associated with the services provided in Grant and Per Diem-funded programs. Applicants should be aware of the following:

VA per diem payment is limited to the applicant's cost of care per eligible veteran minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per day rate VA pays for State Home Domiciliary care. Additionally, potential applicants should take into consideration, ''Grant recipients that concurrently receive Per Diem and Special Needs payments shall not be paid more than 100 percent of the cost for the bed per day, product, operation, personnel, or service provided'' (38 CFR 61.61(h)). Awardees will be required to support their request for Per Diem and Special Needs payments with adequate fiscal documentation as to program income and expenses.

All awardees that are conditionally selected in response to *this NOFA* must meet the Life Safety Code of the National Fire and Protection Association as it relates to their specific facility. VA will conduct an inspection or review a current inspection prior to awardees being able to submit request for payment to ensure this requirement is met.

Each grant awardee will have the VA liaison that was appointed for its corresponding Grant and Per Diem program monitor services to ensure the Special Need grant is being met and will include at least an annual review of each program's progress toward meeting internal goals and objectives in helping the Special Need homeless veterans as identified in each applicant's original Special Need application. Monitoring for all participants will include a review of the agency's income and expenses as they relate to this project to ensure Per Diem and Special Need payments are accurate.

Monitoring of Homeless Special Need participants and services provided by Grant and Per Diem recipients will be accomplished according to the Northeast Program Evaluation Center (NEPEC) procedure. These monitoring procedures will be used to determine successful accomplishment of outcomes for each collaborative partnership.

Funding Priorities: None.

Agreement and Funding Actions: Conditionally selected applicants will complete a funding agreement with VA in accordance with 38 CFR 61.61 and provide any additional information as required by VA. Upon signature by the Secretary or designated representative, final selection will be completed.

Funding for operational Grant and Per Diem applicants that are finally selected will not exceed the period specified in this NOFA. A condition to obtain the Special Need grant is for the applicant to maintain the original (grant or per diem) program for which the Special Need grant is sought.

Application Requirements: A separate application is needed for each project number which you are requesting Special Needs funding. A project number is the last two digits of the year funded, the sequence the application was received, and the state abbreviation for the project location, (*i.e.*, 00–125–MA would have been funded in the year 2000, the 125th application received, and the project is located in Massachusetts). If you do not know your project number call VA's Grant and Per Diem Field Office (toll-free) at 1–877–332–0334.

The package includes the applicant's required forms and certifications. Selections will be made based on criteria described in the application and additional information as specified in this NOFA.

Applicants who are selected will be notified of any further additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: February 16, 2007.

R. James Nicholson,

Secretary of Veterans Affairs.

[FR Doc. E7–3029 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for currently operational VA Grant and Per Diem Special Need Grant Recipients in conjunction with their collaborative VA Special Need partners to make re-applications for assistance under the Special Need grant component of VA's Homeless Providers Grant and Per Diem (GPD) Program. The focus of this Notice of Fund Availability (NOFA) is to encourage applicants to continue to deliver services to the homeless Special Need veteran population. This Notice contains information concerning the program, application process, and amount of funding available.

DATES: An original completed grant application (plus three completed

collated copies) for each project seeking assistance under the VA's Homeless Providers Grant and Per Diem Program Special Need grant component must be received in the Grant and Per Diem Field Office, by 4 p.m. Eastern Time on April 4, 2007. Applications submitted through Grants.gov will be the only electronic format accepted. Applications may not be sent by facsimile (FAX) or other electronic means (e-mail). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. This includes applications through Grants.gov. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by electronic transmission problems, unanticipated delays or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. In this package is information on Grants.gov submission should applicants so desire. For a document relating to the VA's Homeless Providers Grant and Per Diem Program, see the Final Rule codified at 38 CFR Part 61.0.

Submission of Application: An original completed and collated grant application (plus three copies) for each project must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617. Applications must be received in the Grant and Per Diem Field office by the application deadline. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration. If all materials are not included in the application package, this may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Dr. Guy Liedke, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for currently operational Grant and Per Diem Special Need recipients and their collaborative VA partners to obtain grant assistance with additional operational costs that would not otherwise be incurred but for the fact that the recipient is providing supportive housing beds and services or at service centers for the Special Needs of the centers for the following homeless veteran populations:

Chronically mentally ill;

Women, including women who have care of minor dependents;

Frail elderly; or

Terminally ill.

Definitions of these populations are contained in 38 CFR 61.1 Definitions. Eligible applicants should review these definitions to ensure their proposed populations meet the specific requirements.

VA is pleased to issue this NOFA for the Homeless Providers Grant and Per Diem program as a part of the effort to end chronic homelessness among our Nation's veterans. Funding applied for under this Notice may be used for: the provision of service, operation, or personnel to facilitate the following with regard to the targeted group:

Chronically Mentally Ill:

(1) Help participants join in and engage with the community;

(2) Facilitate reintegration with the community and provide services that may optimize reintegration such as life-skills education, recreational activities, and follow up case management;

(3) Ensure that participants have opportunities and services for re-establishing relationships with family;

(4) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants, either directly or through referral, to obtain other services particularly relevant for a chronically mentally ill population, such as vocational development, benefits management, fiduciary or money management services, medication compliance, and medication education.

Women, including women who have care of minor dependents:

(1) Ensure transportation for women and their children, especially for health care and educational needs;

(2) Provide directly or offer referrals for adequate and safe child care;

(3) Ensure children's health care needs are met especially age appropriate wellness visits and immunizations; and

(4) Address safety and security issues including segregation procedures from other program participants if deemed appropriate.

Frail Elderly:

(1) Ensure the safety of the residents in the facility to include preventing harm and exploitation;

(2) Ensure opportunities to keep residents mentally and physically agile to the fullest extent through the incorporation of structured activities, physical activity, and plans for social engagement within the program and in the community;

(3) Provide opportunities for participants to address life transitional issues and separation and/or loss issues;

(4) Provide access to assistance devices such as walkers, grippers, or other devices necessary for optimal functioning;

(5) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(6) Provide opportunities for participants either directly or through referral for other services particularly relevant for the frail elderly, including services or programs addressing emotional, social, spiritual, and generative needs.

Terminally Ill:

(1) Help participants address life-transition and life-end issues;

(2) Ensure that participants are afforded timely access to hospice services;

(3) Provide opportunities for participants to engage in ''tasks of dying,'' or activities of ''getting things in order'' or other therapeutic actions that help resolve end of life issues and enable transition and closure;

(4) Ensure adequate supervision including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants either directly or through referral for other services particularly relevant for terminally ill such as legal counsel and pain management.

VA is seeking, through this NOFA, to renew previous grant and per diem Special Need providers and their VA collaborative partners to continue to serve the Special Need veteran populations.

No part of a Special Need grant may be used for any purpose that would change significantly the scope of the specific Grant and Per Diem project for which a Capital Grant and Per Diem was awarded. As a part of the review process, VA will review the original project listed in the Special Need application to ensure significant scope changes do not occur—displacing other homeless veteran populations. VA may reject for Special Need Funding those applications that significantly alter the original scope (38 CFR 61.62).

A separate Special Need application is required for each previously funded Grant and Per Diem project (identified

by unique project number (see Application Requirements in this NOFA).

Special Need funding may not be used for capital improvements or to purchase vans or real property. However, the leasing of vans or real property may be acceptable. Questions regarding acceptability should be directed to VA's Grant and Per Diem Field Office (at the number listed above). Applicants may not receive Special Need assistance to replace funds provided by any Federal, state or local government agency or program to assist homeless persons.

Authority: VA's Homeless Providers Grant and Per Diem Program and Special Need Grant are authorized by Public Law 109–461, § 703 and § 706 respectively, the law is known as the Veterans Benefit, Health Care and Information Technology Act of 2006, codified at 38 U.S.C. 2011, 2012, 2061, 2064. The program is implemented by the Final Rule codified at 38 CFR Part 61.0. The Final Rule was published in the **Federal Register** on September 26, 2003, the regulations can be found in their entirety in 38 CFR 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $6 million is available for current Special Need Grant and Per Diem grant component of this program. Funding will be for a period beginning on January 1, 2008, and ending on September 30, 2009. Based on the amount of funding available, providers should include any projected excess funds still remaining from their previous award when calculating and submitting their budgets for this NOFA. Previously awarded funding will be used first followed by the funding from this NOFA for the delivery of services. Based on Grant and Per Diem funding availability, approximately, $8 million is expected to be made available over the specified time (internally) for the current VA collaborative partners.

The goal is to the maximum extent possible is to ensure a continuation of Special Need services to homeless veterans and their VA collaborative partners.

It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless veterans and outcomes associated with the services provided in Grant and Per Diem-funded programs. Applicants should be aware of the following:

VA per diem payment is limited to the applicant's cost of care per eligible veteran, minus other sources of payments to the applicant for furnishing services to homeless veterans up to the per day rate VA pays for State Home Domiciliary care. Additionally, potential applicants should take into consideration, ''Grant recipients that concurrently receive per diem and Special Needs payments shall not be paid more than 100 percent of the cost for the bed per day, product, operation, personnel, or service provided'' [38 CFR 61.61(h)]. Awardees will be required to support their request for per diem and Special Needs payments with adequate fiscal documentation as to program income and expenses.

All awardees that are conditionally selected in response to *this NOFA* must meet the Life Safety Code of the National Fire and Protection Association as it relates to their specific facility. VA will conduct an inspection or review a current inspection prior to awardees being able to submit request for payment to ensure this requirement is met.

Each Grant awardee will have the VA liaison that was appointed for its corresponding Grant and Per Diem program monitor services to ensure the Special Need grant is being met and will include at least an annual review of each program's progress toward meeting internal goals and objectives in helping the Special Need homeless veterans as identified in each applicant's original Special Need application. Monitoring for all participants will include a review of the agency's income and expenses as they relate to this project to ensure per diem and Special Need payments are accurate.

Monitoring of Homeless Special Need participants and services provided by Grant and Per Diem recipients will be accomplished according to the Northeast Program Evaluation Center (NEPEC) procedure. These monitoring procedures will be used to determine successful accomplishment of outcomes for each collaborative partnership.

Funding Priorities: None.

Agreement and Funding Actions: Conditionally selected applicants will complete a funding agreement with VA in accordance with 38 CFR 61.61 and provide any additional information as required by VA. Upon signature by the Secretary or designated representative, final selection will be completed.

Funding for operational Grant and Per Diem applicants that are finally selected will not exceed the period specified in this NOFA. A condition to obtain the Special Need Grant is for the applicant to maintain the original (grant or per diem) program for which the Special Need grant is sought.

Application Requirements: A separate application is needed for each project number, which you are requesting Special Needs Funding. In addition, current Special Need recipients should also list their Special Need Project number. A project number is the last two digits of the year funded, the sequence the application was received, and the state abbreviation for the project location, (*i.e.*, 00–125–MA would have been funded in the year 2000, the 125th application received, and the project is located in Massachusetts). If you do not know your project number call VA's Grant and Per Diem Field Office (toll-free) at 1–877–332–0334.

The grant application requirements are specified in the application package and the following additional information is required by this NOFA.

a. Applicants should include in their submissions documentation of successful past performance.

b. If the previous Special Needs grant was a collaborative the submission must include the appropriate performance data from the VA collaborative partner that the VA met its objectives or provided its duties as outlined in the original MOA.

c. An updated MOA signed by the VAMC Director and the applicant agency Director specifying the collaborative and specific duties of the non-profit provider and those of the VA Medical Center that will be accomplished under this grant.

d. Complete new budgets for the provider and collaborative partner with costs based on past costs incurred and evidence of the same. Based on the amount of funding available providers should include any projected excess funds still remaining from their previous award when calculating and submitting their budgets for this NOFA. Previously awarded funding will be used first, followed by the funding from this NOFA for the delivery of services.

Applicants having questions with regard to the projected amount of funding from previous Special Need awards should contact the Grant and Per Diem Field Office prior to application for this NOFA.

The package includes the applicant's required forms and certifications. Selections will be made based on criteria described in the application and additional information as specified in this NOFA.

Applicants who are selected will be notified of any further additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any

conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: February, 16, 2007.

R. James Nicholson,

Secretary of Veterans Affairs.

[FR Doc. E7–3031 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Blue Ribbon Panel on VA Medical School Affiliations; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Blue Ribbon Panel on VA-Medical School Affiliations has scheduled a meeting for March 27, 2007, in Room 542 at 1800 G Street NW., Washington, DC. The meeting will begin at 8:30 a.m. and will end at 3 p.m. The meeting is open to the public.

The purpose of the Panel is to advise the Secretary of Veterans Affairs, through the Under Secretary for Health, in issues related to a comprehensive philosophical framework to enhance VA's partnerships with medical schools and affiliated institutions.

The panelists will review VA's current affiliations with medical schools and establish the future directions of the Panel. The Panel will receive background presentations and issue papers on various topics that are relevant to the Panel's deliberations.

Interested persons may attend and present oral statements to the Panel. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Panel prior to the meeting or at any time, by e-mail to *Gloria.Holland@va.gov* or by mail to Gloria J. Holland, PhD Special Assistant for Policy and Planning to the Chief Academic Affiliations Officer, 810 Vermont Avenue, NW., (14), Washington, DC 20420.

Dated: February 15, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–785 Filed 2–21–07; 8:45am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Former Prisoners of War (FPOW) has scheduled a meeting for April 16–18, 2007, at the Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC. The meeting will be held in room 630 on April 16 and room 830 on April 17–18, from 9 a.m. to 4 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the needs of such veterans for compensation, health care, and rehabilitation.

The agenda for April 16 will begin with an introduction of Committee members, remarks from dignitaries, a review of Committee reports, an update of activities since the last meeting, and a period for FPOW veterans and/or the public to address the Committee. On April 17, the Committee will hear reports from the Veterans Health Administration and Veterans Benefits Administration. The Committee will also hear an update on Robert E. Mitchell Center for Prisoners of War studies. On April 18, the Committee's medical and administrative work groups will meet to discuss their activities and report back to the Committee. Additionally, the Committee will review and analyze comments presented during the meeting to compile a report to be sent to the Secretary.

Members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Mr. Bradley G. Mayes, Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Submitted materials must be received by April 1, 2007.

Dated: February 14, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–784 Filed 2–21–07; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
February 22, 2007

Part II

The President

Memorandum of February 20, 2007—Designation of Officers of the Office of the United States Trade Representative To Act as the United States Trade Representative

Federal Register
Vol. 72, No. 35
Thursday, February 22, 2007

Presidential Documents

Title 3—

The President

Memorandum of February 20, 2007

Designation of Officers of the Office of the United States Trade Representative To Act as the United States Trade Representative

Memorandum for the United States Trade Representative

By the authority vested in me as President under the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

Section 1. *Order of Succession.*

During any period when the United States Trade Representative (USTR) has died, resigned, or otherwise becomes unable to perform the functions and duties of the office of the United States Trade Representative, the following officers of the Office of the United States Trade Representative, in the order listed, shall perform the functions and duties of the USTR, until such time as the USTR is able to perform the functions and duties of that office;

(a) Deputy United States Trade Representatives (stationed in Washington, D.C.; in order of their length of service as a Deputy USTR);

(b) Deputy United States Trade Representative (stationed in Geneva);

(c) General Counsel;

(d) Chief Negotiator for Agriculture;

(e) Deputy General Counsel; and

(f) Deputy Chief of Mission (stationed in Geneva).

Sec. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the USTR pursuant to this memorandum.

(b) No individual shall act as USTR unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting USTR.

Sec. 3. *Judicial Review.* This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 4. *Publication.* You are authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, February 20, 2007.

[FR Doc. 07–838
Filed 2–21–07; 8:48 am]
Billing code 3190–01–M

Reader Aids

Federal Register

Vol. 72, No. 35

Thursday, February 22, 2007

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

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

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

4615–4942 1
4943–5148 2
5149–5326 5
5327–5594 6
5595–5912 7
5913–6140 8
6141–6432 9
6433–6688 12
6689–6918 13
6919–7344 14
7345–7546 15
7547–7736 16
7737–7820 20
7821–7922 21
7923–8086 22

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Ch. XXV 4943
3254 6141

3 CFR

Proclamations:
8097 6670
8104 5323
8105 5913
Executive Orders:
13396 (See Notice of Feb. 5, 2007) 5593
13425 (Supersedes: Military Order of November 13, 2001 7737
Administrative Orders:
Memorandums:
Memorandum of January 25, 2007 5149
Memoradum of February 5, 2007 6917
Memorandum of February 9, 2007 7343
Memorandum of February 15, 2007 7819
Military Order of November 13, 2001 (Superseded by: EO13425) 7737
Notices:
Notice of February 5, 2007 5593

5 CFR

890 .....5151, 7345
950 6142

6 CFR

13 6143

7 CFR

301 .....4945, 6433, 7923
916 7821
917 7821
920 7547
958 7549
966 5327
1416 6435
1496 6450
3550 5153
Proposed Rules:
930 5646
1000 .....6179, 7753
1001 .....6179, 7753
1005 .....6179, 7753
1006 .....6179, 7753
1007 .....6179, 7753
1030 .....6179, 7753
1032 .....6179, 7753
1033 .....6179, 7753
1124 .....6179, 7753
1126 .....6179, 7753
1131 .....6179, 7753

8 CFR

Proposed Rules:
103 4888

9 CFR

Proposed Rules:
92 6490
93 6490
94 .....6490, 7934
98 6490

10 CFR

72 .....4615, 5595
73 4945
Proposed Rules:
40 5348
72 .....4660, 5348
74 5348
150 5348
170 5108
171 5108
430 6184
431 6186

11 CFR

100 5595
111 7551

12 CFR

611 .....5606, 7927
612 5606
613 5606
614 5606
615 5606
619 7927
620 7927
621 7927
624 7927
627 7927
630 7927
701 7927
Proposed Rules:
354 5217

13 CFR

123 5607

14 CFR

1 7346
23 .....4618, 5915, 5917
39 .....4625, 4633, 4635, 4948, 5157, 5160, 5164, 5919, 5921, 5923, 5925, 6457, 6459, 6461, 6919, 6921, 6923, 6925, 6927, 6928, 6931, 6933, 7554, 7555, 7559, 7561, 7563, 7566, 7568, 7572, 7576, 7578, 7581

61 6884
65 7739
71 ....5607, 5608, 5609, 5610, 5611, 5612, 6462, 7928
91 ....6689, 6884, 7739
97 ....4950, 4952, 7821, 7823
119 6884
121 ....6884, 7346
129 7740
135 ....6884, 7346
136 6884
401 7740
415 7740
431 7740
435 7740
440 7740
460 7740
Proposed Rules:
1 6968
21 6968
23 4661
39 ....4663, 4964, 5359, 5362, 5364, 6500, 6973, 6975, 6977, 6980, 6982, 7355, 7357, 7838, 7934, 7936, 7939
43 6968
45 6968
61 5806
71 6501
91 5806
121 5366
125 5366
135 5366
141 5806

15 CFR
801 ....5167, 5169
902 6144

16 CFR
Proposed Rules:
305 6836

17 CFR
38 6936
Proposed Rules:
232 6676
239 6676
240 6378
249b 6378
270 6676
274 6676

18 CFR
35 5171
50 5613
157 5614
366 5171
375 5171
380 5613
Proposed Rules:
2 7583
33 7583
365 7583
366 7583
410 6509

20 CFR
Proposed Rules:
652 7840
661 7840
662 7840
663 7840
664 7840
667 7840

21 CFR
16 7825
510 5329
520 6463
522 7348
524 ....5929, 6463
529 5329
558 4954
864 4637
1240 7825
Proposed Rules:
20 5944
101 5367
201 5944
207 5944
314 5944
330 5944
352 7941
514 5944
515 5944
601 5944
607 5944
610 5944
1271 5944
1308 7945

22 CFR
126 5614

23 CFR
450 7224
500 7224
657 7741
658 7741
773 6464

24 CFR
28 5586
30 5586
81 5586
180 5586
3282 5586
3500 5586

25 CFR
Proposed Rules:
502 7359
546 7359
547 7360

26 CFR
1 ....4955, 5174, 6155
54 7929
602 ....5174, 6155
Proposed Rules:
1 ....5228, 6190, 7560
20 7560
25 7560
31 7560
53 7560
54 7560
56 7560
301 ....6984, 7361

27 CFR
9 6165

29 CFR
1603 5616
1610 5616
1910 7136
2550 ....6473, 7516
2578 7516
4022 7349
4044 7349
Proposed Rules:
4006 7755
4007 7755

30 CFR
943 5330
Proposed Rules:
914 5374
926 5377
938 5380

31 CFR
500 4960

33 CFR
1 7929
100 5333
104 5930
110 6690
117 ....4961, 5333, 5617, 6692, 7351, 7581, 7582
120 5930
155 6168
165 ....4639, 5333, 5619
Proposed Rules:
100 ....4669, 6510
110 5382
165 6512
334 7841

37 CFR
201 5931
Proposed Rules:
1 7583
2 6984

38 CFR
3 6958
59 6959
Proposed Rules:
17 6696

39 CFR
Proposed Rules:
111 7587
3001 5230

40 CFR
52 ....4641, 5932, 7826, 7829
55 5936
60 4641
62 5940
70 7829
86 ....6049, 7921
180 ....4963, 5621, 5624
261 4645
600 ....6049, 7921
Proposed Rules:
49 5944
51 5944
52 ....4671, 4674, 5232, 5946, 6986, 7361, 7842
60 ....4674, 5510, 6320
62 5946
70 7842
80 4966
81 6986

41 CFR
102-76 5942

42 CFR
Proposed Rules:
412 ....4776, 5507
413 ....4776, 5507

43 CFR
1820 6480
2930 7832

44 CFR
64 5630
67 ....5197, 7351
Proposed Rules:
67 ....5239, 5247, 6192, 7365

45 CFR
620 4943
689 4943
1154 6141

46 CFR
1 7929
10 7929
296 5342

47 CFR
0 5631
15 5632
64 6960

48 CFR
12 6882
22 6882
31 6882
32 6882
52 6882
211 6480
213 6484
225 6484
233 6485
237 6485
252 ....6480, 6486
511 4649
516 4649
532 4649
538 4649
546 4649
552 4649
Proposed Rules:
2 ....4675, 7588
3 7588
4 4675
5 4675
13 4675
52 7588
204 6515
212 6515
252 6515
Ch. 7 6812

49 CFR
71 6170
192 4655
195 4655
613 7224
1515 5632
1540 5632
1572 5632
Proposed Rules:
371 5947
375 5947
386 5947
387 5947
571 5385
604 7526
1243 4676
1520 7376
1580 7376

50 CFR

17 6052
91 6487
223 5633
229 .....4657, 5214, 7931
300 6144
404 5642
622 5345
635 .....5633, 6966
648 5643
679 .....5346, 5644, 6177, 6178, 6694, 7353, 7354, 7749, 7750, 7751, 7752, 7933

Proposed Rules:

17 .....4967, 5552, 5856, 6106, 6699, 6703, 6998, 7381, 7843, 7852
223 .....5648, 7382
300 5652
665 .....7385, 7853
679 .....5654, 7948
680 5255

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cranberries not subject to cranberry marketing order; data collection, reporting, and recordkeeping requirements; comments due by 2-26-07; published 12-28-06 [FR E6-22237]

Fish and shellfish; mandatory country of origin labeling; comments due by 2-26-07; published 11-27-06 [FR E6-19962]

Nectarines and peaches grown in—

California; comments due by 2-26-07; published 12-28-06 [FR E6-22234]

Potatoes (Irish) grown in Colorado; comments due by 2-26-07; published 12-27-06 [FR 06-09897]

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Millet crop insurance provisions; comments due by 2-26-07; published 12-27-06 [FR E6-22002]

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

African American farmers and homeowners; heir property; comments due by 3-1-07; published 1-10-07 [FR E6-22102]

AGRICULTURE DEPARTMENT

Rural Utilities Service

African American farmers and homeowners; heir property; comments due by 3-1-07; published 1-10-07 [FR E6-22102]

COMMERCE DEPARTMENT

International Trade Administration

Antidumping and countervailing duties:

Document submission and administrative protective order procedures; comments due by 2-28-07; published 1-8-07 [FR 06-09969]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Right whales; status review; comments due by 2-26-07; published 12-27-06 [FR 06-09908]

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Pollock; comments due by 2-27-07; published 2-15-07 [FR 07-00705]

Magnuson-Stevens Act provisions—

Domestic fisheries; observer health and safety; comments due by 3-1-07; published 1-30-07 [FR E7-01444]

West Coast States and Western Pacific fisheries—

Highly migratory species; comments due by 3-1-07; published 1-30-07 [FR E7-01450]

DEFENSE DEPARTMENT

Civilian health and medical program of the uniformed services (CHAMPUS):

Tricare program—

Pharmacy benefits program; double coverage with Medicare Part D; comments due by 2-26-07; published 12-28-06 [FR E6-22258]

Federal Acquisition Regulation (FAR):

Biobased Products Preference Program; comments due by 2-26-07; published 12-26-06 [FR 06-09846]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Energy conservation standards—

Residential furnaces and boilers; comments due by 2-26-07; published 2-9-07 [FR E7-02167]

Residential furnaces and boilers; public meeting; comments due by 2-26-07; published 10-6-06 [FR 06-08431]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Indiana; comments due by 2-26-07; published 1-25-07 [FR E7-01099]

Kansas; comments due by 3-2-07; published 1-31-07 [FR E7-01518]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Fluthiacet-methyl; comments due by 2-26-07; published 12-27-06 [FR E6-22126]

Zeta-cypermethrin; comments due by 2-27-07; published 12-29-06 [FR E6-22288]

FARM CREDIT ADMINISTRATION

Farm credit system:

Processing and marketing operations; eligibility and scope of financing; comments due by 2-26-07; published 10-16-06 [FR E6-17170]

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:

Private land mobile services—

Nationwide, broadband, interoperable public safety network implementation in 700 MHz band; comments due by 2-26-07; published 1-10-07 [FR E7-00171]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Biobased Products Preference Program; comments due by 2-26-07; published 12-26-06 [FR 06-09846]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs, biological products, and animal drugs; foreign and domestic establishment registration and listing requirements; comments due by 2-26-07; published 8-29-06 [FR 06-07172]

Human drugs:

Human drugs, biological products, and animal drugs; foreign and domestic establishment registration and listing requirements; comments due by 2-26-07; published 2-8-07 [FR E7-02123]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Chesapeake Bay, MD; comments due by 3-1-07; published 12-1-06 [FR E6-19677]

Georgetown Channel, Potomac River, Washington, DC; comments due by 3-1-07; published 12-1-06 [FR E6-19678]

Regattas and marine parades:

St. Mary's Seahawk Sprint; comments due by 2-27-07; published 2-12-07 [FR E7-02231]

Transportation Worker Identification Credential Program; maritime sector implementation:

Commercial driver's license hazardous materials endorsement; comments due by 2-26-07; published 1-25-07 [FR 07-00019]

HOMELAND SECURITY DEPARTMENT

Non-tax debts owed to Department; collection; comments due by 3-1-07; published 1-30-07 [FR 07-00387]

HOMELAND SECURITY DEPARTMENT

Transportation Security Administration

Transportation Worker Identification Credential Program; maritime sector implementation:

Commercial driver's license hazardous materials endorsement; comments due by 2-26-07; published 1-25-07 [FR 07-00019]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Public and Indian housing:

Public housing units; mixed-finance development; public/private partnerships; streamlined application process; comments due by 2-26-07; published 12-27-06 [FR E6-22165]

INTERIOR DEPARTMENT

National Park Service

Special regulations:

Alaska; National Park System Units; subsistence use of timber, seaweed collection, river management, ORV use, and fishing camping;

comments due by 2-26-07; published 12-27-06 [FR E6-22100]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Biobased Products Preference Program; comments due by 2-26-07; published 12-26-06 [FR 06-09846]

PEACE CORPS

Federal Tort Claims Act; claims against the Government; revisions; comments due by 3-1-07; published 1-30-07 [FR 07-00308]

SECURITIES AND EXCHANGE COMMISSION

Investment companies:

Investment company governance practices; comments due by 3-2-07; published 1-8-07 [FR E7-00013]

Securities:

Financial reporting; internal control; management's report; interpretive guidance; comments due by 2-26-07; published 12-27-06 [FR E6-22099]

SMALL BUSINESS ADMINISTRATION

HUBZone program:

Government contracting; comments due by 2-26-07; published 1-26-07 [FR E7-01284]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airmen certification:

Airmen other than flight crew-members; inspection authorization; 2-year renewal; comments due by 3-1-07; published 1-30-07 [FR 07-00412]

Airworthiness directives:

Airbus; comments due by 2-26-07; published 1-25-07 [FR E7-01093]

Boeing; comments due by 2-26-07; published 12-27-06 [FR E6-22040]

Bombardier; comments due by 2-26-07; published 1-26-07 [FR E7-01201]

DORNIER LUFTFAHRT GmbH; comments due by 2-26-07; published 1-25-07 [FR E7-00900]

Gulfstream; comments due by 3-2-07; published 1-31-07 [FR E7-01397]

Raytheon; comments due by 2-26-07; published 12-28-06 [FR E6-22382]

Schools and other certificated agencies:

Repair stations; comments due by 3-1-07; published 12-1-06 [FR 06-09479]

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Buy America requirements; end product analysis and waiver procedures; comments due by 2-28-07; published 1-17-07 [FR E7-00473]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 434/P.L. 110–4

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through July 31, 2007, and for other purposes. (Feb. 15, 2007; 121 Stat. 7; 1 page)

H.J. Res. 20/P.L. 110–5

Making further continuing appropriations for the fiscal year 2007, and for other purposes. (Feb. 15, 2007; 121 Stat. 8; 53 pages)

Last List February 12, 2007

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.