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Contents

Federal Register

Vol. 72, No. 69

Wednesday, April 11, 2007

Separate Parts In This Issue

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.

3 CFR

Proclamations:
8122.....18341

Administrative Orders:
Memorandums:
Memorandum of March 23, 2007.....18103

14 CFR

Proposed Rules:
23.....19136
25.....18136
33 (2 documents).....18136, 18148
35.....19136
39.....18155

15 CFR
902.....18105

17 CFR

Proposed Rules:
1.....18316
3.....18316
4.....18316
15.....18316
166.....18316

18 CFR
1310.....18118

21 CFR
524.....18118

32 CFR
706.....19119

Proposed Rules:
232.....18157

33 CFR
100 (2 documents).....18120, 18122
165 (2 documents).....18124, 18126

Proposed Rules:
100.....18170
165 (3 documents).....18172, 18174, 18176

36 CFR

Proposed Rules:
1192.....18179

38 CFR
17.....18128

39 CFR

Proposed Rules:
111.....18179

40 CFR
180.....18128

Proposed Rules:
152.....18191
156.....18191
167.....18191
168.....18191
169.....18191
172.....18191
174.....18191

43 CFR

Proposed Rules:
10.....18192

50 CFR
92.....18318
270.....18105
622.....18134
679.....18135

Proposed Rules:
20.....18328
648.....18193

Federal Register
Vol. 72, No. 69
Wednesday, April 11, 2007

Presidential Documents

Title 3—

The President

Memorandum of March 23, 2007

Assignment of Functions Under Section 530 of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995, and Section 2(b)(4) of the Export-Import Bank Act of 1945, as Amended

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby assign to you:

(1)the functions of the President under section 530 of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995 (Public Law 103–236) (22 U.S.C. 2429a–2); and

(2)the functions of the President under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635).

You are authorized and directed to publish this memorandum in the **Federal Register**.

[FR Doc. 07–1822
Filed 4–10–07; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 72, No. 69
Wednesday, April 11, 2007

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 270

[Docket No. 040720212–6238–02; I.D. 040204A]

RIN 0648–AS09

Fish and Seafood Promotion Act Provisions; Seafood Marketing Councils

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

ACTION: Final rule.

SUMMARY: In response to renewed fishing industry support for marketing and promotion-related activities, NMFS enacts regulations to implement the Fish and Seafood Promotion Act (FSPA) of 1986 for the establishment, organization, and operation of Seafood Marketing Councils (Councils). Council marketing and promotion plans will be designed to increase the general demand for fish and fish products by encouraging, expanding, and improving the marketing and utilization of fish and fish products both in domestic or foreign markets, through consumer education, research, and other marketing and promotion activities. The intent of this rule is to increase benefits from domestic fisheries while maintaining consistency with NMFS' stewardship goals and mission statement.

DATES: Effective May 11, 2007.

ADDRESSES: Copies of this rule, its Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) are available from Christopher M. Moore, Chief, Federal-State Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Silver Spring, MD 20910. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses, and the summary of impacts and alternatives contained in the Classification section of the preamble of this final rule.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule should be submitted to Christopher M. Moore at the address above or fax to (301) 713–0596 and to David Rostker by e-mail at *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Gordon J. Helm, NMFS, telephone: (301) 713–2379 or E-mail: *Gordon.J.Helm@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

This final rule enacts regulations that implement the Fish and Seafood Promotion Act (FSPA) of 1986 (16 U.S.C. 4001 *et seq.*) to establish and operate Seafood Marketing Councils (Councils) in order to promote the consumption of domestically harvested seafood. A proposed rule requesting public comment on this action published in the **Federal Register** on January 24, 2006 (71 FR 3797). Public comments were accepted through February 23, 2006. A full discussion of the background of this rule was presented in the preamble to the proposed rule for this action and is not repeated here.

In summary, NMFS issued a final rule in 1989 enacting the FSPA, as it pertains to Councils, for one or more species of fish or fish products. The FSPA permitted the creation of Councils under a set of guidelines established by the Secretary of Commerce (Secretary), who delegated authority to NMFS, to establish a National Seafood Marketing Council (National Council). This National Council was authorized to fund applicants' referenda to establish and terminate species-specific marketing councils. However, no species-specific marketing councils were established and the National Council was disbanded. In 1996, the regulations implementing the FSPA were removed from the Code of Federal Regulations (CFR) as part of the government-wide Presidential regulatory reform effort. Although the implementing regulations were withdrawn from the CFR, the FSPA remains in effect.

The seafood promotion council rule addresses a market failure that reduces consumer demand for seafood as a result of the dissemination of partial, misleading or faulty information to consumers. In reality, no consumer can have perfect information about a seafood product. However, the dissemination of significantly incorrect information about a product can substantially lower consumer demand. In the case of seafood, this could reduce consumption of an important health-beneficial food. While the role of the federal government is not to promote seafood, it does have a responsibility to the consumer to ensure that the information presented to them is accurate and scientifically valid. The Secretary of Commerce or designee on the Seafood Promotion Council has the responsibility of approving or rejecting proposed marketing plans based on the accuracy and scientific validity of the information presented to the public.

An example of a case where partial information leads to a substantial reduction in the consumer demand for a seafood product includes recent marketplace confusion over contaminants such as mercury in seafood. The Food and Drug Administration and industry have promoted the health benefits of omega–3 fatty acids, but consumers also hear that many of the fish highest in omega–3 fatty acids also generally contain the higher levels of contaminants. This leads to consumer confusion over the degree to which the relative health benefits exceed the risk from contaminants and may result in consumers diverting their demand for protein to other products that may provide fewer health benefits or carry different health risks. While the seafood industry could tackle this imperfect information market failure on its own through promotional campaigns and consumer education, opponents could counter that the industry action is ''self serving.'' To counter this perceived conflict of interest, the Federal government can offer, through the Seafood Promotion Act, a seal of approval to assure consumers that the

information being offered is accurate and reliable.

Industry has expressed to NMFS interest and support for seafood marketing and promotion-related activities. Niche marketing programs have been initiated by both the Pacific salmon harvesters in Alaska and by the Wild American Shrimp organization in the southern Atlantic and Gulf of Mexico states. Additional interest has been expressed by U.S. tuna processors who are also facing declining market shares due to foreign competition. In response to industry requests, NMFS promulgates regulations providing the foundation for the establishment, organization, and administrative practices of the Councils.

Application to Establish A Council

An application package submitted to NMFS to establish a Council must consist of the following information: (1) an application requesting NMFS to establish a Council; (2) a list of sector participants who are eligible to vote in the referendum; (3) a proposed charter under which the proposed Council would operate; and (4) an IRFA and/or other analytical documentation addressing the requirements of the Regulatory Flexibility Act, Executive Order 12866, National Environmental Policy Act, and other information which may include, but is not limited to, an analysis of the primary, secondary, and tertiary affects of increasing demand for seafood. This information will be used by NMFS to determine if the proposed council or its marketing program is consistent with NMFS conservation goals, national standards, and other guidelines. The applicant will also have to demonstrate to NMFS that the council or its marketing program is consistent with Federal standards and guidelines on nutrition and health. For detailed information regarding application requirements, see the preamble to the proposed rule published January 24, 2006.

NMFS will determine if the application package is complete and complies with all of the requirements set forth in the implementing regulations, the FSPA of 1986, and other applicable law and make an initial decision on the application within 180 days of receipt.

Referendum on Adoption of Proposed Charter and Council Appointments

NMFS will conduct a referendum on the adoption of the proposed charter within 90 days of its initial affirmative decision. The referendum will be conducted among all sector participants that meet the requirements for eligibility to participate in the referendum, as identified in the proposed charter. The vote may be made by any responsible officer, owner, or employee representing a sector participant. The referendum to establish a Council would pass if votes cast in favor of the proposed charter constitute a majority of the sector participants voting in each and every sector. Further, the majority must collectively account for, in the preceding 12–month period, at least 66 percent of the value of the fish and fish products described in the proposed charter that were handled during this period, in that sector, and by those who met the eligibility requirements to vote in the referendum. If the referendum passes, NMFS will establish a Council and approve the proposed charter.

NMFS will initially pay all costs related to the conduct of the referendum to establish a Council. Once an application has been approved, NMFS will estimate the cost of conducting the referendum, notify the applicants, and request that they post a bond or provide other applicable security, such as a cashier's check, to cover costs of the referendum. After the referendum has been conducted, NMFS will inform the applicants of the exact cost. If the referendum is approved and the proposed charter is adopted, the Council will be required to reimburse NMFS for the total actual costs of the referendum within 2 years after establishment of the Council. This amount would be paid for from assessments collected by the Council. If a referendum fails to result in establishment of a Council, NMFS would immediately recover all expenses incurred from the bond or security posted by applicants.

Within 30 days after a Council is established, NMFS will solicit nominations for Council members from the sector participants represented on the Council in accordance with the approved charter. The members of each Council should be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable with regard to the activities of the sector which the individual would represent on the Council. NMFS will appoint the members of the Council from among the nominees within 60 days. The term for members would be 3 years. Council members will serve without compensation but would be reimbursed for their reasonable expenses incurred in performing their duties as members of the Council.

Continued Operation of a Council

Continued operation of a Council is at the discretion of NMFS and subject to NMFS' annual review of a market assessment prepared by the Council and evaluation of Council performance. Increases in product prices will not be the sole criteria for determining the effectiveness of a marketing program. The Council must demonstrate that the marketing plan will not adversely impact those fisheries for which conservation and management measures are necessary to prevent overfishing and rebuild overfished stocks, i.e., the market plan should be designed to increase profits rather than increase harvest. The marketing plan should also demonstrate that conservation and management efforts in other fisheries are not adversely affected, but NMFS may use the primary, secondary, or tertiary impacts in evaluating whether the Council should be allowed to continue operating. Where measures have been implemented to reduce the overall harvest in a fishery, the marketing plan should clearly identify how stock conservation harvest capacity reduction would not be adversely impacted. Council support of the regional fishery management council's adoption of dedicated or controlled access programs, for example but not limited to programs such as Individual Fishing Quota, moratorium on new entrants into a fishery, and other effort control measures, are programs that comply with this standard. NMFS retains the authority to determine if the continued operation of a Council would be in the public interest.

Councils will be required to: (1) meet performance standards approved by NMFS that demonstrate that marketing and promotion programs are effective in increasing consumer demand for species-specific seafood products; (2) conduct market assessments based on economic, market, social and demographic, and biological information as deemed necessary by NMFS; (3) submit annual plans and budgets for species-specific marketing and promotion plans; (4) submit progress reports on implementation of the marketing and promotion plans; and (5) submit financial reports with respect to the receipt and disbursement of funds entrusted to it. NMFS will require a complete audit report to be conducted by an independent public accountant and submitted to NMFS at the end of each fiscal year.

Assessments

Councils will be funded through voluntary assessment of the industry

represented on the Councils. Assessments will be imposed on sector participants in the receiving sector or the importing sector or both as specified in the approved Council charter. Assessment rates will be based on value that may be expressed in monetary units or units of weight or volume. Once a participant declines to pay an assessment, or elects not to participate in a Council, no future assessments will be imposed. With NMFS' concurrence, a Council will establish the applicable assessment for those seeking to rejoin or participate in a Council at a future time.

The Council will notify a sector participant subject to assessment that the assessment is due. The notification informs the participant of the right to seek review of the assessment by filing a written petition of objection with NMFS at any time during the time period to which the assessment applies in accordance with the procedures in § 270.19. The notification also informs the participant of the right to request a refund of the assessment and provides deadlines for submission of the request.

Persons subject to an assessment will be required to pay the assessment on or before the date due, unless they have demanded a refund or filed a petition of objection with NMFS under § 270.21. However, a person who has demanded a refund under § 270.22 or filed a petition of objection under § 270.21 may submit proof of these actions in lieu of payment. In the case of a petition of objection, NMFS will inform the Council and the petitioner of its finding at which time petitioner must pay the revised assessment if applicable.

Pursuant to 16 U.S.C. 4014, any sector participant who pays an assessment under the FSPA may demand and must promptly receive from the Council a refund of the assessment. A demand for refund must be made in accordance with procedures in the approved charter and within the time limits prescribed by the Council and approved by NMFS. Procedures to provide such a refund will be established before any such assessment will be collected. Once a refund has been requested by a sector participant and paid by the Council, that sector participant will no longer participate in a referendum or other business of the Council during the remainder of the assessment rate period. However, if assessments are paid during a future assessment rate period and no refund is requested, that sector participant will be able to again participate in a referendum or other business of the Council.

Quality Standards

Each Council may develop and submit to NMFS for approval, or upon the request of a Council, NMFS will develop, quality standards for the species of fish or fish products described in the approved charter. Any quality standard developed should be consistent with the purposes of the FSPA. A quality standard should be adopted by a Council by a majority of its members following a referendum conducted by the Council among sector participants of the concerned sector(s). In order for a quality standard to be brought before Council members for adoption, the majority of the sector participants of the concerned sector(s) must vote in favor of the standard. Furthermore, according to the best available data, the majority must collectively account for, in the preceding 12–month period, not less than 66 percent of the value of the fish or fish products described in the charter that were handled during such period in that sector by those who meet the eligibility requirements to vote in the referendum. Councils may develop quality standards establishing the criteria for the fish or fish products being promoted. The Council will submit a plan to conduct the referendum on the quality standards to NMFS for approval at least 60 days in advance of such referendum date.

An official observer appointed by NMFS will be allowed to be present at the ballot counting and any other phase of the referendum process, and may take whatever steps NMFS deems appropriate to verify the validity of the process and results of the referendum.

Quality standards developed must meet or exceed the U.S. Food and Drug Administration§ s minimum requirements for fish and fish products for human consumption and must be consistent with applicable standards of the U.S. Department of Commerce (NOAA) or other recognized Federal standards and/or specifications for fish and fish products.

Dissolution of a Council

In order to terminate a Council, at least three sector participants in any one sector must file a petition with NMFS. The petition should be accompanied by a written document explaining the reasons for the petition. If NMFS initially determines that the petition is accompanied by the signatures, or corporate certifications, of no less than three sector participants in the sector who collectively accounted for, in the preceding 12–month period, not less than 20 percent of the value of the fish or fish products that were handled by that sector during the period, NMFS within 90 days after the initial determination, will conduct a referendum for termination of the Council among all sector participants in that sector.

If the referendum votes which are cast in favor of terminating the Council constitute a majority of the sector participants voting and the majority, in the preceding 12–month period, collectively accounted for not less than 66 percent of the value of such fish and fish products the that were handled during that period by the sector who filed the petition, NMFS will by order terminate the Council effective as of a date by which the affairs of the Council should be concluded.

Cost of Referendum

NMFS will initially pay all costs of this referendum. However, prior to conducting the referendum, NMFS will require petitioners to post a bond or other security acceptable to NMFS in an amount which NMFS determines to be sufficient to pay any expenses incurred for the conduct of the referendum.

If a Council is terminated, NMFS, after recovering all expenses incurred for the conduct of the referendum, will take action as is necessary and practicable to ensure that moneys remaining in the account established by the Council are paid on a prorated basis to the sector participants from whom those moneys were collected. If a referendum fails to result in the termination of the Council, NMFS will immediately recover the amount of the bond posted by the petitioners.

If the amount remaining in the Council account is insufficient for NMFS to recover all expenses incurred for the conduct of the referendum, NMFS will recover the balance of the expenses from the petitioners that posted a bond.

Comments and Responses

Sixteen commenters provided 15 comments during the comment period for the proposed rule for this action. Commenters included commercial and recreational fishermen, processors, importers, distributors, marketers, senior scientists, environmental non-governmental organizations, and concerned citizens.

Comment 1: Several commenters were concerned that the establishment of Seafood Marketing Councils would promote over-fishing or favor the commercial industry at the expense of recreational fishing opportunities. Some of the species listed as candidates for a marketing program (e.g., some groupers,

snappers, cod, and flatfish) are already overexploited.

Response: Seafood Marketing Councils and their marketing plans are required to comply with NMFS' conservation and stewardship goals and objectives. Marketing Councils will not play any role in the management of fisheries through the setting of annual quotas, limitations on fishing effort or the allocation of fishery resources. Rebuilding plans for overexploited stocks will not be affected by this rule.

Comment 2: A number of commenters emphasized the importance of educating the public about the nutritional benefits of seafood and the risks associated with mercury and other contaminants.

Response: NMFS agrees that educating the public on the benefits and risks of eating seafood is important. The establishment of Seafood Marketing Councils is an opportunity to provide the public with accurate information about contaminant risks for vulnerable sub-populations and to document the health benefits associated with consuming seafood.

Comment 3: Several commenters were concerned that NMFS would intrude in the industry§ s marketing decisions. Commenters suggested that NMFS should not review or be expected to approve marketing plans developed by private sector experts. Additionally, they were concerned that Federal intervention in marketing efforts would strip away free market abilities.

Response: This rule is intended to create a voluntary program that operates under the control of its participants. NMFS' role is to ensure that scientifically accurate information is provided to consumers of seafood products and to ensure the smooth functioning of the Marketing Councils. Marketing Councils will improve the transmission of clear and accurate information about seafood products to consumers and thereby enhance free market capabilities to allocate and price seafood products.

Comment 4: Several non-governmental organizations emphasized the need for an Environmental Impact Statement (EIS).

Response: Based on preliminary analyses under the National Environmental Policy Act (NEPA), NMFS has concluded that preparation of an EIS is not necessary at this time because the effort is primarily educational and informational in nature. The promotional nature of the effort is such that it will not affect individually or cumulatively the quality of the human environment, or impact managed species, essential fish habitat, or species or their habitat protected under the Endangered Species Act (16 U.S.C. 1531 *et seq.*). Further analysis under NEPA will be required before any Seafood Marketing Council is considered for approval by the Secretary. There is nothing in this action that would establish a precedent about future proposals.

Comment 5: Two non-governmental organizations were concerned that the Seafood Marketing Councils may raise seafood prices for U.S. consumers. Middle- to low-income families would be less likely to purchase seafood and receive its nutritional benefits.

Response: The market for fish products is diverse and complex. An increase in price for one commodity does not translate into an increase across all commodities. One commodity's price increase could result in a price decline for other seafood products. Many lower cost fish product alternatives will still exist for consumers even with a price increase in one product.

Comment 6: One commenter questioned why the regulations to create Seafood Marketing Councils were previously removed.

Response: The Fish and Seafood Promotion Act (FSPA) initially established a National Seafood Council funded by Congress. When the Congressional funds were exhausted, the seafood industry did not choose to continue the funding for the National Seafood Council, and it was deactivated. During that time, seafood product prices remained at premium levels and industry did not feel the need to fund generic marketing programs. Since the 1990s, the advance of aquaculture production worldwide has contributed to a decline in general prices for seafood products. Today, domestic commercial seafood harvesters are facing a financial crisis. Therefore, there is some renewed industry interest and support for seafood marketing and promotion-related activities.

Comment 7: Several commenters were concerned that the amount of required analytical documentation to apply is too burdensome for the industry, and that there would be little incentive for industry to participate in this program.

Response: The amount of analysis will vary according to the design and composition of each potential Seafood Marketing Council. NMFS staff will coordinate with applicants in the development of specific analysis requirements, subject to NMFS review and approval.

Comment 8: Some commenters were concerned about the associated costs to NMFS during a time when the agency struggles with meeting costs of established programs. They requested that NMFS funds be allocated for issues like conservation and education, rather than seafood promotion.

Response: Expenses of operating the Marketing Councils are to be borne entirely by Council participants. These are voluntary, self-financed, industry-based, marketing programs that will not interfere with NMFS' ability to meet its mission goals.

Comment 9: One association suggested that the criteria for a referendum should be the participation of companies representing greater than fifty percent of the industry's revenue rather than the participation of more than half of the industry's participants.

Response: According to the FSPA, the majority of sector participants that vote in favor of establishing the Marketing Council must represent 66 percent of the value of the fish and fish products produced in the last six months by the sector petitioning to create a Marketing Council.

Comment 10: One commenter suggested that foreign seafood market development should not be among the responsibilities of the Marketing Councils, since this function is already filled by the U.S. Department of Agriculture.

Response: The focus of the Marketing Councils is on the domestic marketing of seafood. They are not intended to compete with other federal or state programs that have jurisdiction for international marketing of seafood products.

Comment 11: One commenter suggested that the rule include a provision that allows small, regional marketing organizations to organize under a Seafood Marketing Council if they so choose.

Response: Existing regional marketing organizations have a voice in the formation of any new Councils through the referendum process.

Comment 12: One commenting organization was concerned that the rule promotes a singular species message that may conflict with their broader multi-species message. Another commenter was concerned that the Marketing Councils would exclude some participants or finance the promotion of one type of seafood at the expense of another.

Response: Existing regional marketing councils can petition to form multi-species Councils. The merits of each potential Marketing Council will be considered on a case-by-case basis.

Comment 13: One commenting group was opposed to voluntary participation. If someone decides not to vote in the referendum, that person will not be

assessed even if the majority of other sector participants agree to the formation of a Seafood Marketing Council. In their view, if a Marketing Council is formed for a particular fish or fish product, assessments should be required of all sector participants.

Response: Recent decisions by the U.S. Supreme Court (*Johanns* v. *Livestock Marketing Association*; 544 U.S. 550; 2005 U.S. LEXIS 4343), while not specifically addressing voluntary participation in Seafood Marketing Councils, strongly indicated that a voluntary Marketing Council program would be preferable to mandatory participation in future councils.

Comment 14: One commenter suggested that the quality seal should not be used as an eco-label; this perception could be confusing to the public.

Response: The criteria supporting a quality seal will be subject to approval by the Secretary, and made known to the public. A quality seal will not be taken to mean environmentally friendly.

Comment 15: Several organizations believe the rule is inconsistent with NOAA§ s goal of decreasing the seafood trade deficit. They suggested that by allowing importers to participate in the Marketing Councils, NMFS would be providing an indirect subsidy for imported seafood, thus undermining a program such as offshore aquaculture that was intended to reduce U.S. dependence on seafood imports.

Response: The establishment of Seafood Marketing Councils will not be a Government subsidy to the commercial fishing industry, either foreign or domestic, since all costs will be funded by the Marketing Council's participants. It is not expected to contribute to the seafood trade deficit.

Changes From the Proposed Rule

Pursuant to the Paperwork Reduction Act (PRA), part 902 of title 15 CFR displays control numbers assigned to NMFS information collection requirements by the Office of Management and Budget (OMB). This part fulfills the requirements of section 3506(c)(1)(B)(I) of the PRA, which requires that agencies display a current control number assigned by the Director of OMB, for each agency information collection requirement. This final rule codifies OMB control numbers for 0648–0556 for § 270.

Under NOAA Administrative Order 205–11, 07/01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

Classification

This final rule has been determined to be significant for purposes of Executive Order 12866.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0556. The information collection requirements contained in this final rule can be broadly categorized into two categories: (1) Information required of an individual or organization applying for consideration to form a Council, and (2) information required of a formed and operating Council. Information required of an individual or organization applying for consideration to form a Council, consists of an ''application for charter'' that is composed of three sections: petition, proposed charter, and a list of eligible referendum participants. Public reporting burden for this portion of the collection requirement in 50 CFR part 270 is 320 hours in total, with an average of 80 hours to develop a petition, 200 hours to develop a proposed charter, and 40 hours to develop a list of eligible referendum participants. All other information requirements in the final rule are imposed on the Councils, once they are established. The estimated reporting time for these information requirements varies from 1 to 120 hours per response. Council submission of an annual plan, an annual budget, and an annual financial report are estimated at 120 hours each for a total of 360 hours. Council submissions of semi-annual progress reports are estimated at 40 hours twice a year, notice of assessments at 20 hours once a year, list of Council nominations following a favorable referendum at 20 hours once a year, and meeting notices at 1–2 hours once a year. Other submissions are optional and are dependent upon the operation of a particular Council and its participants. For instance, Council submission of a plan to conduct a referendum on development of quality standards is estimated at 40 hours with no more than annual frequency. Additionally, assessed participants of a Council submission of a petition of objection and/or request for refund is estimated at 2 hours each no more than 6 times a year. These estimated reporting times include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total time estimate is 1,127 hours. The total annual cost burden to respondents is expected to be $4,700 based on the need for outside auditing of Seafood Marketing Council financial records. Start up costs are $3,200 and annual operating costs are $1,500. Send comments regarding these burden estimates or any other aspects of the data collection to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall 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.

Final Regulatory Flexibility Analysis

NMFS prepared this FRFA which incorporates the Initial Regulatory Flexibility Analysis (IRFA) published in the **Federal Register** on January 24, 2006 (71 FR 3797). The IRFA is not repeated here in its entirety. The need for and the objectives of the rule are explained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of the proposed rule and this final rule.

Description of and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

The potential universe of entities affected by this action includes all harvesters, importers, marketers, and processors of seafood. With the exception of a small number of catcher-processor vessels, most harvesters are identified as small entities under the Regulatory Flexibility Act meeting a size standard of less than $4.0 million in gross receipts. Importers and marketers are characterized as small if the number of employees working in a typical pay period number are 100 or fewer, while seafood processors employing 500 people or less are considered small. A Council could be made up of any combination of small or large firms depending upon the sector or sectors of a particular fishery the Council is representing. NMFS statistics indicate that there are approximately 17,679 harvesters, 935 processing plants, and 2,446 wholesale and marketing establishments that could be affected by this proposed rule.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

The information collection requirements contained in this final rule can be broadly categorized into two categories: (1) Information required of an individual or organization applying for consideration to form a Council, and

(2) information required of a formed and operating Council. Information required of an individual or organization applying for consideration to form a Council, consists of an ''application for charter'' that is composed of three sections: petition, proposed charter, and a list of eligible referendum participants. The estimated reporting time for this portion of the collection requirement in 50 CFR part 270 is 320 hours in total, with an average of 80 hours to develop a petition, 200 hours to develop a proposed charter, and 40 hours to develop a list of eligible referendum participants. All other information requirements are imposed on the Councils, once they are established. The estimated reporting time for these information requirements varies from 1 to 120 hours per response. Council submission of an annual plan, an annual budget, and an annual financial report are estimated at 120 hours each for a total of 360 hours. Council submissions of semi-annual progress reports is estimated at 40 hours twice a year, notice of assessments at 20 hours once a year, list of Council nominations following a favorable referendum at 20 hours once a year, and meeting notices at 1–2 hours once a year. Other submissions are optional and are dependent upon the operation of a particular Council and its participants. For instance, Council submission of a plan to conduct a referendum on development of quality standards is estimated at 40 hours with no more than annual frequency. Additionally, assessed participants of a Council's submission of an objection petition and/or request for refund is estimated at 2 hours each no more than 6 times a year. These estimated reporting times include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In addition to recordkeeping and reporting requirements required to create a Council, small entities could also be required to complete forms required to administer assessment fees, petition for a refund of assessment fees, or participate in any referendum under a specific Council's charter. NMFS believes the number of burden hours to small entities to meet Council obligations could range between 5 and 20 hours annually. This final rule does not implement a seafood marketing program, therefore, the Paperwork Reduction Act requirements are not triggered. However, there may be a need for additional burden hours once a Council's charter is accepted.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS received 15 comments from 16 commenters on the proposed rule. Of these, seven comments were submitted either directly on the conclusions reached in the IRFA or on the economic viability of the rulemaking vis-a-vis small businesses.

Comment A: Several commenters believed that the promotion of fishery exports is already supported by the Foreign Agricultural Service (FAS), United States Department of Agriculture (USDA), and the proposed seafood marketing councils may overlap with rulemaking specific to the FAS.

Response: NMFS recognizes that there may be a slight overlap with rulemaking that may be specific to the functions of the FAS. However, NMFS believes that the overlaps are not significant and seafood marketing councils may provide additional benefits to constituents by providing unique services. Discussions between FAS and NMFS are ongoing to address any overlaps that could result from this rulemaking.

Comment B: One commenter believes that too much Federal involvement strips away free market abilities from any individual.

Response: The IRFA notes that the implementation of this final rule does not guarantee that all firms will benefit equally from a seafood promotion program. However, NMFS believes that increasing the demand for seafood products would only serve to enhance the markets for seafood via increased demand and increased pricing power.

Comment C: One commenter believes the Council should not give money to one seafood at the expense of a different type.

Response: NMFS is requiring seafood councils, as part of their planning process, to submit an economic analysis that would support Regulatory Flexibility Act (RFA) and Executive Order 12866 (E.O. 12866) analysis used for rulemaking to determine impacts to other seafood products. NMFS will not support marketing plans for one product that would significantly affect the profitability of firms operating in another seafood sector of the economy. If the analysis indicates potential impacts to small entities, the Agency will attempt to mitigate to the extent practicable adverse impacts to other sectors that may accrue.

Comment D: One commenter disagreed with the Agency's assertion that the free rider problem would be less significant for fisheries than agricultural products.

Response: As noted in the IRFA, NMFS believes that relative price changes would be less severe in situations where increased supplies from the aggregate of firms respond to higher demand (also known as an elastic demand for most fishery products). However, NMFS did not state that a free rider problem would not exist and pointed out that product differentiation could alleviate much of the perceived problem.

Comment E: One commenter believed that requiring analyses that would support RFA or E.O. 12866 analyses would be burdensome.

Response: NMFS agrees that this would be time consuming but the benefits of performing these analyses would far outweigh the costs in regard to the ability to estimate the effects of marketing plans on small entities, producers of other seafood and agricultural products, and the general economy as well.

Comment F: One commenter representing a regional fisheries marketing council noted that direct competition from species-specific Federally-guided councils would directly compete against their products and dilute their position in the marketplace.

Response: See Response to Comment C.

Comment G: One commenter representing a fishing industry sector believes that all firms identified as part of a sector should pay a mandatory fee regardless of whether they desire to participate in a council or not and further asserts that voluntary or ''de facto voluntary'' formation of seafood promotion councils is not what the Fish and Seafood Promotion Act (FSPA) intended.

Response: NMFS specifically requested comments on whether the amount of funds collected through ''de facto'' voluntary assessments after considering administrative costs, program costs, the effect of free riders, and other economic considerations would enable Councils to develop and maintain marketing, assessment, and research programs sufficient to benefit both the industry and those firms choosing to pay ''de facto'' voluntary assessments. There were no comments received on this specific solicitation.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

There are two major provisions of this final rule that will minimize economic impacts to small entities. Firstly, the Agency has provided a means for a small entity to forego a mandatory assessment fee even though they may be listed as a participant for a proposed Council. By making Council participation voluntary, small businesses that believe it will not be cost effective to participate in a Council would not be required to do so. Consequently, these businesses could avoid additional cost of sales that could reduce or squeeze their overall profit margin. Secondly, the provision that will require Councils to submit, to NMFS, economic analysis of the impacts to small entities of proposed marketing and promotion plans will allow the Agency to mitigate to the extent practicable any adverse impacts that may accrue to participants in a Council, other fishery sectors, or non-fishery sectors.

Small Entity Compliance Guide

Section 212 of the Small Business Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. There are no compliance issues directly associated with the implementation of this rule. However, when a petition to form a Council is received by the Agency, a copy of this published final rule with a cover letter informing the petitioners of administrative requirements for initiating the Council process including requirements for conducting a referendum will be provided to the petitioners. The cover letter will also list Agency contacts responsible the Seafood Marketing Council program. Copies of this final rule and cover letter are available from the Office of Sustainable Fisheries, NMFS (see **ADDRESSES**).

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 270

Administrative practice and procedure, Fish, Marketing, Seafood.

Dated: April 4, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter II are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under ''50 CFR'' is amended by adding new entries to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number(all numbers begin with 0648–)
* * * *	*
50 CFR	
* * * *	*
270.3	–0556
270.6	–0556
270.8	–0556
270.10	–0556
270.12	–0556
270.13	–0556
270.14	–0556
270.15	–0556
270.19	–0556
270.20	–0556
270.23	–0556
* * * *	*

■ 3. A new subchapter H consisting of part 270 is added to Chapter II to read as follows:

50 CFR Chapter II

SUBCHAPTER H—FISH AND SEAFOOD PROMOTION

PART 270—SPECIES-SPECIFIC SEAFOOD MARKETING COUNCILS

Sec.

Authority: 16 U.S.C. 4001–4017

§ 270.1 Scope.

This part 270 describes matters pertaining to the establishment, representation, organization, practices, procedures, and termination of Seafood Marketing Councils.

§ 270.2 Definitions.

The following terms and definitions are in addition to or amplify those contained in the Fish and Seafood Promotion Act of 1986:

Act means the Fish and Seafood Promotion Act of 1986 (Public Law 99–659) and any subsequent amendments.

Consumer education means actions undertaken to inform consumers of matters related to the consumption of fish and fish products.

Council means a Seafood Marketing Council for one or more species of fish and fish products of that species established under section 210 of the Act (16 U.S.C. 4009).

Expenditure means monetary or material worth of fishery products. Expenditure is determined at the point a receiver obtains product from a harvester or an importer obtains product from a foreign supplier. Value may be expressed in monetary units (the price a receiver pays to a harvester or an importer pays to a foreign supplier).

Fiscal year means any 12–month period as NMFS may determine for each Council.

Fish means finfish, mollusks, crustaceans, and all other forms of aquatic animal life used for human consumption; the term does not include marine mammals and seabirds.

Harvester means any person in the business of catching or growing fish for purposes of sale in domestic or foreign markets.

Importer means any person in the business of importing fish or fish products from another country into the United States and its territories, as defined by the Act, for commercial purposes, or who acts as an agent, broker, or consignee for any person or nation that produces, processes or markets fish or fish products outside of the United States for sale or for other commercial purposes in the United States.

Marketer means any person in the business of selling fish or fish products in the wholesale, export, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products in preparation for sale.

Marketing and promotion means any activity aimed at encouraging the consumption of fish or fish products or expanding or maintaining commercial markets for fish or fish products.

Member means any person serving on any Council.

Participant means a member of a sector or business identified in an application for a Council charter as being subject to the referendum or assessment process.

Person means any individual, group of individuals, association, proprietorship, partnership, corporation, cooperative, or any private entity of the U.S. fishing industry organized or existing under the laws of the United States or any state, commonwealth, territory or possession of the United States who meets the eligibility requirements as defined in a proposed charter to vote in a referendum.

Processor means any person in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale in domestic or foreign markets.

Receiver means any person who owns fish processing vessels and any person in the business of acquiring (taking title to) fish directly from harvesters.

Research means any type of research designed to advance the image, desirability, usage, marketability, production, quality and safety of fish and fish products.

Secretary means the Secretary of Commerce, or the Secretary's designee.

Sector means

(1) The sector consisting of harvesters;

(2) The sector consisting of importers;

(3) The sector consisting of marketers;

(4) The sector consisting of processors;

(5) The sector consisting of receivers; or

(6) The consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products;

Sector participant means any individual, group of individuals, association, proprietorship, partnership, corporation, cooperative, or any private entity of the U.S. fishing industry organized or existing under the laws of the United States or any state, commonwealth, territory or possession of the United States who meets the eligibility requirements as defined in a proposed charter to vote in a referendum.

Species means a fundamental category of taxonomic classification, ranking after genus, and consisting of animals that possess common characteristic(s) distinguishing them from other similar groups.

Value means monetary or material worth of fishery products. Value is the difference between what a receiver is willing to pay for a product provided by a harvester and its market price or an importer is willing to pay for a product from a foreign supplier and its market price. Value may be expressed in monetary units representing consumer surplus or producer surplus.

§ 270.3 Submission of application.

(a) Persons who meet the minimum requirements for sector participants as described in the proposed charter may file an application with NMFS for a charter for a Seafood Marketing Council for one or more species of fish and fish products of that species. One signed original and two copies of the completed application package must be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, 1315 East-West Highway, Silver Spring, MD 20910. Applications should not be bound.

(b) The application consists of four parts:

(1) A document requesting NMFS to establish a Council;

(2) A proposed charter under which the proposed Council will operate;

(3) A list of eligible referendum participants; and

(4) Analytical documentation addressing requirements of applicable law.

(c) *Content of application*—(1) *Application or requesting document.* The application or requesting document submitted by the applicants to NMFS requesting that the Council be established, to the extent practicable, must include the signatures or corporate certifications, of no less than three sector participants representing each sector identified in accordance with paragraph (c)(2)(v) of this section and who, according to the available data, collectively accounted for, in the 12–month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products specified in the charter that were handled during such period in each sector by those who meet the eligibility requirements to vote in the referendum as defined by the application. The application must also include a statement that, if established, the Council will have sufficient resources (e.g., cash, donated office space, services, supplies, etc.) available for initial administrative expenditures pending collection of assessments.

(2) *Proposed charter.* A proposed charter must contain, at a minimum, the following information:

(i) The name of the Council and a provision proclaiming its establishment;

(ii) A declaration of the purposes and objectives of the Council;

(iii) A description of the species of fish and fish products, including the scientific and common name(s), for which the Council will implement marketing and promotion plans under the Act. (The American Fisheries Society's ''List of Common and Scientific Names of Fishes from the United States and Canada'' (latest edition) or where available, an appropriate volume of its ''List of Common and Scientific Names of Aquatic Invertebrates of the United States and Canada'' (latest edition) should be used as the authority for all scientific and common names.);

(iv) A description of the geographic area (state(s)) within the United States covered by the Council;

(v) The identification of each sector and the number and terms of representatives for each sector that will be voting members on the Council. (The number of Council members should be manageable, while ensuring equitable geographic representation. The term for members will be 3 years. Initially, to ensure continuity, half of the members' terms will be 2 years and half will be 3 years. Reappointments are permissible.);

(vi) The identification of those sectors (which must include a sector consisting of harvesters, a sector consisting of receivers, and, if subject to assessment, a sector consisting of importers), eligible to vote in the referendum to establish the Council;

(vii) For each sector described under paragraph (c)(2)(v) of this section, a threshold level specifying the minimum requirements, as measured by income,

volume of sales, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in a referendum;

(viii) A description of the rationale and procedures for determining assessment rates as provided in § 270.18, based on a fixed amount per unit of weight or measure, or on a percentage of value of the product handled;

(ix) The proposed rate or rates that will be imposed by the Council on receivers and, if subject to assessment, importers during its first year of operation;

(x) The maximum amount by which an assessment rate for any period may be raised above the rate applicable for the immediately preceding period;

(xi) The maximum rate or rates that can be imposed by a Council on receivers or importers during the operation of the Council;

(xii) The maximum limit on the amount any one sector participant may be required to pay under an assessment for any period;

(xiii) The procedures for providing refunds to sector participants subject to assessment who request the same in accordance with the time limits specified § 270.22;

(xiv) A provision setting forth the voting procedures by which votes may be cast by proxy;

(xv) A provision that the Council will have voting members representing the harvesting, receiving and, if subject to assessment, importing sectors;

(xvi) A provision setting forth the definition of a quorum for making decisions on Council business and the procedures for selecting a chairperson of the Council;

(xvii) A provision that members of the Council will serve without compensation, but will be reimbursed for reasonable expenses incurred in performing their duties as members of the Council;

(xviii) A provision containing a requirement for submission to NMFS the criteria and supporting data for evaluating the annual and/or multi-year performance of proposed marketing plans and the Council's performance;

(xix) A provision containing a requirement for submission of documentation as requested by NMFS for purposes of evaluating performance of proposed marking plans and the Council's related performance;

(xx) Where adequate funds are not available, a provision containing the minimum number of participants needed for sustained operations that cannot receive assessment refunds;

(xxi) A provision acknowledging that NMFS will have the right to participate in Council meetings;

(xxii) A provision that the Council will conduct its activities in accordance with applicable NMFS requirements and that NMFS has final approval authority over proposed marketing plans and Council actions;

(xxiii) A provision containing a requirement for the Council to arrange for a complete audit report to be conducted by an independent public accountant and submitted to NMFS at the end of each fiscal year;

(xxiv) A provision containing a requirement for the Council to conduct a market assessment based on economic, market, social and demographic, and biological information as deemed necessary by NMFS; and

(xxv) A provision containing a requirement for the Council to update the list of referendum participants on an annual basis.

(3) *List of referendum participants.* The list of referendum participants, to the extent practicable, must identify the business name and address of all sector participants that the applicants believe meet the requirements for eligibility to vote in the referendum on the adoption of the proposed charter.

(i) The list should include all sectors in which a sector participant meets the eligibility requirements to vote in a referendum. If a sector participant has more than one place of business located within the geographic area of the Council, all such places should be listed and the primary place of business should be designated. The agency will provide appropriate information in its possession of a non-proprietary nature to assist the applicants in developing the list of sector participants.

(ii) [Reserved]

(4) *Analytical documentation.* The applicant must address the requirements of the Act, implementing regulations, and other applicable law, i.e., E.O. 12866, Regulatory Flexibility Act, National Environmental Policy Act, and other law as NMFS determines appropriate.

§ 270.4 Review of application.

Within 180 days of receipt of the application to establish a Council, NMFS will:

(a) Determine if the application is complete and complies with all of the requirements set out in § 270.3 and complies with all provisions of the Act and other applicable laws.

(b) Identify, to the extent practicable, those sector participants who meet the requirements for eligibility to participate in the referendum to establish the Council. NMFS may require additional information from the applicants or proposed participants in order to verify eligibility. NMFS may add names to or delete names from the list of sector participants believed eligible by the applicants until the time of the referendum based on additional information received.

(c) If NMFS finds minor deficiencies in an application that can be corrected within the 180–day review period, NMFS will advise the applicants in writing of what must be submitted by a specific date to correct the minor deficiencies.

(d) If NMFS makes a final negative determination, on an application, NMFS will advise the applicant in writing of the reason for the determination. The applicant may submit another application at any time thereafter. NMFS then has 180 days from receipt of the new application to render a final determination on its acceptability.

§ 270.5 Conduct of referendum.

(a) Upon making affirmative determinations under § 270.4, NMFS, within 90 days after the date of the last affirmative determination, will conduct a referendum on the adoption of the proposed charter.

(b) NMFS will estimate the cost of conducting the referendum, notify the applicants, and request that applicants post a bond or provide other applicable security, such as a cashier§ s check, to cover costs of the referendum.

(c) NMFS will initially pay all costs of a referendum to establish a Council. Within two years after establishment, the Council must reimburse NMFS for the total actual costs of the referendum from assessments collected by the Council. If a referendum fails to result in establishment of a Council, NMFS will immediately recover all expenses incurred for conducting the referendum from the bond or security posted by applicants. In either case, such expenses will not include salaries of government employees or other administrative overhead, but will be limited to those additional direct costs incurred in connection with conducting the referendum.

(d) No less than 30 days prior to holding a referendum, NMFS will:

(1) Publish in the **Federal Register** the text of the proposed charter and the most complete list available of sector participants eligible to vote in the referendum; and

(2) Provide for public comment, including the opportunity for a public meeting.

§ 270.6 Sector participants eligible to vote.

(a) Any participant who meets the minimum requirements as measured by income, volume of sales or other relevant factors specified in the approved charter may vote in a referendum.

(b) Only one vote may be cast by each participant who is eligible to vote, regardless of the number of individuals that make up such ''participant'' and how many sectors the participant is engaged in. The vote may be made by any responsible officer, owner, or employee representing a participant.

§ 270.7 Results of referendum.

(a) *Favorable vote to establish a Council.* NMFS will, by order of publication in the **Federal Register**, establish the Council and approve an acceptable proposed charter, if the referendum votes which are cast in favor of the proposed charter constitute a majority of the sector participants voting in each and every sector. Further, according to the best available data, the majority must collectively account for, in the 12–month period immediately preceding the month in which the proposed charter was filed, at least 66 percent of the value of the fish and fish products described in the proposed charter handled during such period in each sector by those who meet the eligibility requirements to vote in the referendum as defined by the applicants.

(b) *Unfavorable vote to establish a Council.* If a referendum fails to pass in any sector of the proposed Council, NMFS will not establish the Council or approve the proposed charter. NMFS will immediately recover the cost of conducting the referendum according to § 270.5(c).

(c) *Notification of referendum results.* NMFS will notify the applicants of the results of the referendum and publish the results of the referendum in the **Federal Register**.

§ 270.8 Nomination and appointment of Council members.

(a) Within 30 days after a Council is established, NMFS will solicit nominations for Council members from the sectors represented on the Council in accordance with the approved charter. If the harvesters and receivers represented on the Council are engaged in business in two or more states, but within the geographic area of the Council, the nominations made under this section must, to the extent practicable, result in equitable representation for those states. Nominees must be knowledgeable and experienced with regard to the activities of, or have been actively engaged in the business of, the sector that such person will represent on the Council. Therefore, a resume will be required for each nominee.

(b) In accordance with 16 U.S.C. 4009(f), NMFS will, within 60 days after the end of the 30–day period, appoint the members of the Council from among the nominees.

§ 270.9 Terms, vacancies and removal of Council members.

(a) A Council term is for 3 years, except for initial appointments to a newly established Council where:

(1) Half of the Council member terms will be 2 years; and

(2) Half of the Council member terms will be 3 years.

(b) A vacancy on a Council will be filled, within 60 days after the vacancy occurs, in the same manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed will be appointed only for the remainder of such term.

(c) Any person appointed under the Act who consistently fails or refuses to perform his or her duties properly and/or participates in acts of dishonesty or willful misconduct with respect to responsibilities under the Act will be removed from the Council by NMFS if two-thirds of the members of the Council recommend action. All requests from a Council to NMFS for removal of a Council member must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

§ 270.10 Responsibilities of a Council.

(a) Each Council will:

(1) Implement all terms of its approved charter;

(2) Prepare and submit to NMFS, for review and approval under § 270.11(a)(1), a marketing and promotion plan and amendments to the plan which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the Council;

(3) Implement and administer an approved marketing and promotion plan and amendments to the plan;

(4) Determine the assessment to be made under § 270.18 and administer the collection of such assessments to finance Council expenses described in paragraph (b) of this section;

(5) Receive, investigate and report to NMFS accounts of violations of rules or orders relating to assessments collected under § 270.20, or quality standard requirements established under § 270.15;

(6) Prepare and submit to NMFS, for review and approval a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the Council, including

(i) All administrative and contractual expenses;

(ii) The probable costs of consumer education, research, and other marketing and promotion plans or projects;

(iii) The costs of the collection of assessments; and

(iv) The expense of repayment of the costs of each referendum conducted in regard to the Council.

(7) Comply with NMFS requirements, and prepare and submit to NMFS for review, evaluation, and verification of results and analysis an annual market assessment and related analytical documentation that is based on economic, market, social, demographic, and biological information as deemed necessary by NMFS;

(8) Maintain books and records, prepare and submit to NMFS reports in accordance with respect to the receipt and disbursement of funds entrusted to it, and submit to NMFS a completed audit report conducted by an independent auditor at the end of each fiscal year;

(9) Reimburse NMFS for the expenses incurred for the conduct of the referendum to establish the Council or any subsequent referendum to terminate the Council that fails;

(10) Prepare and submit to NMFS report or proposals as the Council determines appropriate to further the purposes of the Act.

(b) Funds collected by a Council under § 270.17 will be used by the Council for—

(1) Research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish projects;

(2) Other expenses, as described in § 270.10(a)(1);

(3) Such other expenses for the administration, maintenance, and functioning of the Council as may be authorized by NMFS; and

(4) Any reserve fund established under paragraph (e)(4) of this section and any administrative expenses incurred by NMFS specified as reimbursable under this Part.

(c) Marketing and promotion plans and amendments to such plans prepared by a Council under paragraph(a)(2) of this section will be designed to increase the general demand for fish and fish products described in accordance with § 270.3(c)(2)(iii) by encouraging,

expanding, and improving the marketing, promotion and utilization of such fish and fish products, in domestic or foreign markets, or both, through consumer education, research, and other marketing and promotion activities.

(d) Consumer education and other marketing and promotion activities carried out by a Council under a marketing and promotion plan and amendments to a plan may not contain references to any private brand or trade name and will avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(e) *Authority of a Council.* A Council may:

(1) Sue and be sued;

(2) Enter into contracts;

(3) Employ and determine the salary of an executive director who may, with the approval of the Council employ and determine the salary of such additional staff as may be necessary;

(4) Establish a reserve fund from monies collected and received under § 270.17 to permit an effective and sustained program of research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(f) Amendment of a charter. A Council may submit to NMFS amendments to the text of the Council's charter. Any proposed amendments to a charter will be approved or disapproved in the same manner as the original charter was approved under § 270.4 and § 270.5 with the exception of § 270.4(b).

§ 270.11 Responsibilities of NMFS.

(a) In addition to the duties prescribed under 16 U.S.C. 4009, NMFS will:

(1) Participate in Council meetings and review, for consistency with the provisions of 50 CFR part 270 and other applicable law, and approve or disapprove, marketing and promotion plans and budgets within 60 days after their submission by a Council;

(2) Immediately notify a Council in writing of the disapproval of a marketing and promotion plan or budget, together with reasons for such disapproval;

(3) Issue orders and amendments to such orders that are necessary to implement quality standards under § 270.15;

(4) Promulgate regulations necessary to carry out the purposes of this chapter;

(5) Enforce the provisions of the Act;

(6) Make all appointments to Councils in accordance with § 270.8 and the approved Council charter;

(7) Approve the criteria and time frames under which a Council's performance will be evaluated; and

(8) Implement the provisions of 16 U.S.C. 4001 *et seq.* in accordance with the available financial and management resources NMFS determines can be utilized.

(b) NMFS may provide, on a reimbursable or other basis, such administrative or technical assistance as a Council may request for purposes of the initial organization and subsequent operation of the Council. However, a Council is responsible for the cost of preparing and submitting information (e.g., reports, evaluation data, etc.) requested by NMFS.

§ 270.12 Notice of Council meetings.

The Council will give NMFS the same notice of its meetings as it gives to its members. NMFS will have the right to participate in all Council meetings.

§ 270.13 Books, records and reports.

(a) The Council must submit to NMFS the following documents according to the schedule approved in the Council's charter:

(1) A marketing assessment and promotion plan;

(2) A financial report with respect to the receipt and disbursement of funds;

(3) An audit report conducted by an independent public accountant; and

(4) Other reports or data NMFS determines necessary to evaluate the Council's performance and verify the results of the market assessment and promotion plan..

(b) All Council records, reports, and data must be maintained by the Council for a minimum of 3 years, even if the Council is terminated.

§ 270.14 Update of sector participant data.

The Council will submit to NMFS at the end of each fiscal year an updated list of sector participants who meet the minimum requirements for eligibility to participate in a referendum as stated in the approved charter.

§ 270.15 Quality standards.

(a) Each Council may develop and submit to NMFS for approval or, upon the request of a Council, NMFS will develop quality standards for the species of fish or fish products described in the approved charter. Any quality standard developed under this paragraph must be consistent with the purposes of the Act.

(b) A quality standard developed under paragraph (a) of this section may be adopted by a Council by a majority of its members following a referendum conducted by the Council among sector participants of the concerned sector(s). In order for a quality standard to be brought before Council members for adoption, the majority of the sector participants of the concerned sector(s) must vote in favor of the standard. Further, according to the best available data, the majority must collectively account for, in the 12–month period immediately preceding the month in which the referendum is held, not less than 66 percent of the value of the fish or fish products described in the charter that were handled during such period in that sector by those who meet the eligibility requirements to vote in the referendum as defined by the petitioners.

(c) The Council must submit a plan to conduct the referendum on the quality standards to NMFS for approval at least 60 days in advance of such referendum date. The plan must consist of the following:

(1) Date(s) for conducting the referendum;

(2) Method (by mail or in person);

(3) Copy of the proposed notification to sector participants informing them of the referendum;

(4) List of sector participants eligible to vote;

(5) Name of individuals responsible for conducting the referendum;

(6) Copy of proposed ballot package to be used in the referendum; and

(7) Date(s) and location of ballot counting.

(d) An official observer appointed by NMFS will be allowed to be present at the ballot counting and any other phase of the referendum process, and may take whatever steps NMFS deems appropriate to verify the validity of the process and results of the referendum.

(e) Quality standards developed under this section of the regulations must, at a minimum, meet Food and Drug Administration (FDA) minimum requirements for fish and fish products for human consumption.

(f) Quality standards must be consistent with applicable standards of the U.S. Department of Commerce (National Oceanic and Atmospheric Administration) or other recognized Federal standards and/or specifications for fish and fish products.

(g) No quality standard adopted by a Council may be used in the advertising or promotion of fish or fish products as being inspected by the United States Government unless the standard requires sector participants to be in the U.S. Department of Commerce voluntary seafood inspection program.

(h) The intent of quality standards must not be to discriminate against importers who are not members of the Council.

(i) Quality standards must not be developed for the purpose of creating non-tariff barriers. Such standards must be compatible with U.S. obligations under the General Agreement on Tariffs and Trade, or under other international standards deemed acceptable by NMFS.

(j) The procedures applicable to the adoption and the operation of quality standards developed under this subchapter also apply to subsequent amendments or the termination of such standards.

(k) With respect to a quality standard adopted under this section, the Council must develop and file with NMFS an official identifier in the form of a symbol, stamp, label or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identifier is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product. The use of such identifier is governed by § 270.15.

§ 270.16 Deposit of funds.

All funds collected or received by a Council under this section must be deposited in an appropriate account in the name of the Council specified in its charter. Funds eligible to be collected or received by a Council must be limited to those authorized under the Act.

(a) Pending disbursement, under an approved marketing plan and budget, funds collected through assessments authorized by the Act must be deposited in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States Government.

(b) The Council may, however, pending disbursement of these funds, invest in risk-free, short-term, interest-bearing instruments.

(1) *Risk-free.* All investments must be insured or fully collateralized with Federal Government securities. In the absence of collateral, accounts established at financial institutions should, in aggregate, total less than $100,000 to assure both principal and interest are federally insured in full.

(2) *Short-term.* Generally, all investments should be for a relatively short time period (one year or less) to assure that the principal is maintained and readily convertible to cash.

(3) *Collateralization.* Investments exceeding the $100,000 insurance coverage level must be fully collateralized by the financial institution.

(i) Collateral must be pledged at face value and must be pledged prior to sending funds to the institution.

(ii) Government securities are acceptable collateral. Declining balance, mortgage backed securities such as Government National Mortgage Association (GNMA) and Federal National Mortgage Association (FNMA) are not acceptable collateral.

(iii) If an account has been established, collateral may be held at the local Federal Reserve Bank. Otherwise, another depository must hold the collateral.

§ 270.17 Authority to impose assessments.

A Council will impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the Council in carrying out its functions under 50 CFR part 270.

§ 270.18 Method of imposing assessments.

Assessments will be imposed on sector participants in the receiving sector or the importing sector or both as specified in an approved Council charter. Assessment rates will be based on value that may be expressed in monetary units or units of weight or volume.

(a) An assessment on sector participants in the receiving sector will be in the form of a percentage of the value or a fixed amount per unit of weight or volume of the fish described in the charter when purchased by such receivers from fish harvesters.

(b) An assessment on sector participants who own fish processing vessels and harvest the fish described in the charter will be in the form of a percentage of the value or on a fixed amount per unit of weight or volume of the fish described in the charter that is no less than the value if such fish had been purchased by a receiver other than the owner of the harvesting vessel.

(c) An assessment on sector participants in the importing sector will be in the form of a percentage of the value that an importer pays to a foreign supplier, as determined for the purposes of the customs laws, or a fixed amount per unit of weight or volume, of the fish or fish products described in the charter when entered or withdrawn from warehouse for consumption, in the customs territory of the United States by such sector participants.

(d) A Council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the Council by reason of failure to meet the requirements specified under unless that person, after the date on which the referendum is held, meets the requirements of section.

(e) Any person may make voluntary payments or in-kind contributions to a Council for purposes of assisting the Council in carrying out its functions.

§ 270.19 Notice of assessment.

(a) The Council must serve each person subject to assessment with notice that the assessment is due. The notice of assessment must contain:

(1) A specific reference to the provisions of the Act, regulations, charter and referendum that authorize the assessment;

(2) The amount of the assessment;

(3) The period of time covered by the assessment;

(4) The date the assessment is due and payable, which will not be earlier than 30 days from the date of the notice;

(5) The form(s) of payment; and

(6) To whom and where the payment must be made.

(b) The notice must advise such person of his or her right to seek review of the assessment by filing a written petition of objection with NMFS at any time during the time period to which the assessment applies, including the right to request a hearing on the petition. The notice must state that the petition of objection must be filed in accordance with the procedures in § 270.21.

(c) The notice must also advise such persons of his or her right to a refund of the assessment as provided in § 270.22. The notice must state that a refund may be requested for not less than 90 days from such collection, and provide that the Council will make the refund within 60 days after the request for the refund is requested.

§ 270.20 Payment of assessments.

Persons subject to an assessment would be required to pay the assessment on or before the date due, unless they have demanded a refund or filed a petition of objection with NMFS under § 270.21. However, persons who have demanded a refund under § 270.22 or filed a petition of objection under § 270.21 may submit proof of these actions in leu of payment. In the case of a petition of objection, NMFs will inform the Council and the petitioner of its finding at which time petitioner must pay the revised assessment if applicable.

§ 270.21 Petition of objection.

(a) *Filing a petition.* Any person issued a notice of assessment under

§ 270.19 may request that NMFS modify or take other appropriate action regarding the assessment or promotion plan by filing a written petition of objection with NMFS. Petitions of objection may be filed:

(1) Only if the petitioner determines one or more of the following criteria is not in accordance with the law:

(i) The assessment;

(ii) The plan upon which the assessment is based; or

(iii) Any obligation imposed on the petitioner under the plan.

(2) Only during the time period to which the assessment applies.

(b) *Contents of the petition of objection.* A petition must be addressed to Assistant Administrator for Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, and must contain the following:

(1) The petitioner's correct name, address, and principal place of business. If the petitioner is a corporation, this must be stated, together with the date and state of incorporation, and the names, addresses, and respective positions of its officers; if a partnership, the date and place of formation and the name and address of each partner;

(2) The grounds upon which the petition of objection is based, including the specific terms or provisions of the assessment, the marketing and promotion plan, or obligation imposed by the plan, to which the petitioner objects;

(3) A full statement of the facts upon which the petition is based, set forth clearly and concisely, accompanied by any supporting documentation;

(4) The specific relief requested; and

(5) A statement as to whether or not the petitioner requests a hearing.

(c) *Notice to Council.* NMFS will promptly furnish the appropriate Council with a copy of the petition of objection.

(d) *Opportunity for informal hearing.* (1) Any person filing a petition of objection may request an informal hearing on the petition. The hearing request must be submitted with the petition of objection.

(2) If a request for hearing is timely filed, or if NMFS determines that a hearing is advisable, NMFS will so notify the petitioner and the Council. NMFS will establish the applicable procedures, and designate who will be responsible for conducting a hearing. The petitioner, the Council, and any other interested party, may appear at the hearing in person or through a representative, and may submit any relevant materials, data, comments, arguments, or exhibits. NMFS may consolidate two or more hearing requests into a single proceeding.

(3) *Final decision.* Following the hearing, or if no hearing is held, as soon as practicable, NMFS will decide the matter and serve written notice of the decision on the petitioner and the Council. NMFS's decision will be based on a consideration of all relevant documentation and other evidence submitted, and will constitute the final administrative decision and order of the agency. NMFS will have the discretion to waive collection of a contested assessment or revise, modify, or alter the assessment amount based on a Council method of assessment.

§ 270.22 Refunds.

(a) Notwithstanding any other provision of the Act, any person who pays an assessment under the Act may demand and must promptly receive from the Council a refund of such assessment. A demand for refund must be made in accordance with procedures in the approved charter and within such time as will be prescribed by the Council and approved by NMFS. Procedures to provide such a refund must be established before any such assessment may be collected. Such procedures must allow any person to request a refund 90 days or more from such collection, and provide that such refund must be made within 60 days after demand for such refund is made.

(b) Once a refund has been requested by a sector participant and paid by the Council, that sector participant may no longer participate in a referendum or other business of the Council during the remainder of the assessment rate period. Future assessments will only be sent to such a sector participant at the request of the sector participant. If assessments are paid during a future assessment rate period and no refund is requested, that sector participant may again participate in a referendum or other business of the Council.

§ 270.23 Dissolution of Councils.

(a) *Petition for termination.* (1) A petition to terminate a Council may be filed with NMFS by no less than three sector participants in any one sector. Any petition filed under this subsection must be accompanied by a written document explaining the reasons for such petition.

(2) If NMFS determines that a petition filed under paragraph (a)(1) of this section is accompanied by the signatures, or corporate certifications, of no less than three sector participants in the sector referred to in paragraph (a)(1) of this section who collectively accounted for, in the 12–month period immediately preceding the month in which the petition was filed, not less than 20 percent of the value of the fish or fish products described in § 270.3(c)(2)(iii) that were handled by that sector during the period, NMFS within 90 days after the determination, will conduct a referendum for termination of the Council among all sector participants in that sector.

(3) Not less than 30 days prior to holding a referendum, NMFS will publish an announcement in the **Federal Register** of the referendum, including an explanation of the reasons for the petition for termination filed under paragraph (a)(1) of this section and any other relevant information NMFS considers appropriate.

(4) If the referendum votes which are cast in favor of terminating the Council constitute a majority of the sector participants voting and the majority, in the period in paragraph (a)(2) of this section, collectively accounted for not less than 66 percent of the value of such fish and fish products that were handled during such period by the sector in paragraph (a)(1) of this section, NMFS will by order of publication terminate the Council effective as of a date by which the affairs of the Council may be concluded on an orderly basis.

(5) NMFS initially will pay all costs of a referendum conducted in § 270.23. Prior to conducting such a referendum, NMFS will require petitioners to post a bond or other security acceptable to NMFS in an amount which NMFS determines to be sufficient to pay any expenses incurred for the conduct of the referendum.

(6) If a referendum conducted under § 270.23 fails to result in the termination of the Council, NMFS will immediately recover the amount of the bond posted by the petitioners under § 270.23(a)(5).

(7) If a referendum conducted under this subsection results in the termination of the Council, NMFS will recover the expenses incurred for the conduct of the referendum from the account established by the Council. If the amount remaining in such account is insufficient for NMFS to recover all expenses incurred for the conduct of the referendum, NMFS will recover the balance of the expenses from the petitioners that posted a bond under paragraph (a)(5) of this section.

(b) *Payment of remaining funds.* If a Council is terminated under section § 270.23(a)(4), NMFS, after recovering all expenses incurred for the conduct of the referendum under paragraph (a) of this section, will take such action as is necessary and practicable to ensure that moneys remaining in the account established by the Council under

§ 270.17 are paid on a prorated basis to the sector participants from whom those moneys were collected under § 270.20.

[FR Doc. E7–6751 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–22–S

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1310

Administrative Cost Recovery

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: TVA is amending its administrative cost recovery regulations by eliminating cost recovery exemptions for the following: Conveyances of land pursuant to Section 4(k)(d) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831c(k)(d)); TVA phosphate land transactions; and permits and licenses for use of TVA land by distributors of TVA power.

The implementation of this rule amendment will allow TVA to recover more of its administrative costs incurred in processing certain actions from those who directly benefit from the actions.

EFFECTIVE DATE: April 11, 2007.

FOR FURTHER INFORMATION CONTACT: Nancy Greer, Senior Manager, Process and Performance Management, (865) 632–3339.

SUPPLEMENTARY INFORMATION: In order to help ensure that TVA land management and permitting activities are self-sustaining to the full extent possible, the agency is amending its administrative cost recovery regulations by eliminating certain mandatory cost recovery exemptions. This determination is consistent with the objectives of increasing efficiency and recovering the cost of government services from those who most directly benefit from the services.

TVA is amending its administrative cost recovery regulation by eliminating the following exemptions: Conveyances of land pursuant to Section 4(k)(d) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831c(k)(d)); TVA phosphate land transactions; and permits and licenses for use of TVA land by distributors of TVA power.

TVA is also amending the rule to reflect new organizational changes within the agency. The terms ''Vice President of Land Management'' or ''Manager of Power Properties'' are to be amended to read ''Senior Manager of the TVA organization that manages the land.''

TVA published a proposed rule on April 14, 2006. TVA considers this final rule to be a nonsubstantive rule relating to agency management and public property pursuant to 5 U.S.C. 553(a)(2). However, TVA provided a thirty day public comment period to hear from any interested parties. No comments were received. Since this rule relates to services provided by the agency, a regulatory flexibility analysis is not required.

List of Subjects in 18 CFR Part 1310

Government property, Hunting.

For the reasons set out in the preamble, TVA amends 18 CFR part 1310 as follows:

PART 1310—ADMINISTRATIVE COST RECOVERY

■ 1. The authority citation for part 1310 continues to read as follows:

Authority: 16 U.S.C. 831–831dd; 31 U.S.C. 9701.

■ 2. Revise paragraphs (a) introductory text and (b) of § 1310.2 to read as follows:

§ 1310.2 Application.

(a) *General.* TVA will undertake the following actions only upon the condition that the applicant pay to TVA such administrative charges as the Senior Manager of the TVA organization that administers the land or permit being considered (hereinafter ''responsible land manager''), as appropriate, shall assess in accordance with § 1310.3; provided, however, that the responsible land manager may waive payment where he/she determines that there is a corresponding benefit to TVA or that such waiver is otherwise in the public interest.

* * * * *

(b) *Exemption.* An administrative charge shall not be made for the following actions:

(1) Releases of unneeded mineral right options.

(2) TVA mineral transactions.

* * * * *

Authority: 16 U.S.C. 831–831dd (2000 & Supp. III 2003).

Dated: March 2, 2007.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment and Environmental Executive, Tennessee Valley Authority.

[FR Doc. 07–1702 Filed 4–10–07; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Mupirocin Ointment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Altana, Inc. The ANADA provides for veterinary prescription use of mupirocin ointment for the treatment of bacterial skin infections in dogs.

DATES: This rule is effective April 11, 2007.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Altana, Inc., 60 Baylis Rd., Melville, NY 11747, filed ANADA 200–418 that provides for veterinary prescription use of MURICIN (mupirocin) Ointment 2% for the treatment of bacterial skin infections in dogs. Altana, Inc.'s MURICIN Ointment 2% is approved as a generic copy of Pfizer, Inc.'s BACTODERM Ointment approved under new animal drug application (NADA) 140–839. The ANADA is approved as of March 8, 2007, and the regulations are amended in 21 CFR 524.1465 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because

it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Revise § 524.1465 to read as follows:

§ 524.1465 Mupirocin.

(a) *Specifications.* Each gram of ointment contains 20 milligrams mupirocin.

(b) *Sponsors.* See Nos. 000069 and 025463 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Apply twice daily. Treatment should not exceed 30 days.

(2) *Indications for use.* For the topical treatment of bacterial infections of the skin, including superficial pyoderma, caused by susceptible strains of *Staphylococcus aureus* and *S. intermedius.*

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: March 30, 2007.

Bernadette A. Dunham,

Acting Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–6828 Filed 4–10–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS SAMPSON (DDG 102) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: Effective Date: April 11, 2007.

FOR FURTHER INFORMATION CONTACT: Commander Gregg A. Cervi, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS SAMPSON (DDG 102) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.

■ 2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS SAMPSON:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * * *	*	* *
USS SAMPSON	DDG 102	1.88 meters.
* * * *	*	* *

■ 3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS SAMPSON:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * *	*	* *
USS SAMPSON	DDG 102	107.27 thru 112.50 [degrees].
* * * *	*	* *

■ 4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS SAMPSON:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* * *	*	*	*	*	*
USS SAMPSON	DDG 102	X	X	X	14.5
* * *	*	*	*	*	*

Approved: March 27, 2007.

Gregg A. Cervi,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. E7–6738 Filed 4–10–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–013]

RIN 1625–AA08

Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations for the ''Virginia State Hydroplane Championship'' hydroplane races held annually on the waters of the Western Branch of the Elizabeth River at Portsmouth, Virginia. This action is necessary because the event will be held on April 21 and 22, 2007, instead of on April 27 and 28, 2007 as established by permanent regulation. This special local regulation is intended to restrict vessel traffic in portions of the Elizabeth River and is necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 8 a.m. to 6 p.m. on April 21 and 22, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05–07–013) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis M. Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 2, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, VA in the **Federal Register** (72 FR 9477). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support craft and other vessels transiting the event area. However, advance notifications will be made to affected waterway users via marine information broadcasts, area newspapers and local radio stations.

Background and Purpose

On April 21 and 22, 2007, Virginia Boat Racing Association will sponsor the ''Virginia State Hydroplane Championship'' hydroplane races on the waters of the Western Branch of the Elizabeth River at Portsmouth, Virginia. The event will consist of approximately 75 hydroplane powerboats conducting high-speed competitive races on the Western Branch of the Elizabeth River in the vicinity of Portsmouth City Park,

Portsmouth, Virginia. A fleet of spectator vessels is expected to gather near the event site to view the competition. The regulation at 33 CFR 100.525 is effective annually for this marine event. Paragraph (c) of Section 100.525 establishes the enforcement date for the hydroplane races. This regulation temporarily changes the permanent regulation so that the event may be held on April 21 and 22, 2007 instead of the fourth Friday and following Saturday in April. The Virginia Boat Racing Association who is the sponsor for this event still intends to hold this event annually, however, this year they have requested a change in the date of the event for 2007. The change was requested to accommodate participation by all hydroplane participants. To provide for the safety of participants, spectators, support and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the hydroplane races.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Western Branch, Elizabeth River, Portsmouth, Virginia.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this proposed action merely establishes the date on which the existing regulation would be in effect and would not impose any new restrictions on vessel traffic.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would effect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Western Branch of the Elizabeth River during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would merely change the date on which the existing regulations would be enforced in the regulated area and would not impose any new restrictions on vessel traffic.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not

likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine event permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.525:

■ A. From 8 a.m. to 6 p.m. on April 21 and 22, 2007, suspend paragraph (c); and

■ B. From 8 a.m. to 6 p.m. on April 21 and 22, 2007, add a new paragraph (d) to read as follows:

§ 100.525 Western Branch, Elizabeth River, Portsmouth, Virginia.

* * * * *

(d) *Enforcement period.* This section will be enforced from 8 a.m. to 6 p.m. on April 21 and 22, 2007. A notice of enforcement of this section will be disseminated through the Fifth Coast Guard District Local Notice to Mariners announcing the specific event date and times. Notice will also be made via marine Safety Radio Broadcast on VHF–FM marine band radio channel 22 (157.1 MHz).

Dated: March 26, 2007.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–6780 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–009]

RIN 1625–AA08

Special Local Regulations for Marine Events; Martin Lagoon, Middle River, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations during the ''Baltimore County Community Waterfront Festival'', an event to be held May 12, 2007 at Martin Lagoon, Middle River, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Middle River waterfront to accommodate watercraft static displays, fire-rescue demonstrations and a fireworks display.

DATES: This rule is effective from 9 a.m. to 11 p.m. on May 12, 2007. If this event is postponed due to weather this temporary final rule will be effective from 9 a.m. to 11 p.m. on May 13, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–07–009 and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: D. M. Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 26, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Martin Lagoon, Middle River, MD in the **Federal Register** (72 FR 8323). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

On May 12, 2007 Baltimore County will sponsor the ''Baltimore County Community Waterfront Festival''. Various watercraft static displays and fire-rescue demonstrations will be staged within Martin Lagoon. The fireworks display will be launched from Wilson Point Park but the hazardous fallout area will extend over Martin Lagoon. A fleet of spectator vessels is expected to gather near the event site to view the fireworks display. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on the specified waters of Martin Lagoon, Middle River, Maryland.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

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

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

Although this regulation restricts vessel traffic from transiting Martin Lagoon during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts and area newspapers so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit Martin Lagoon during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a short period, from 9 a.m. to 11 p.m. on May 12, 2007. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD

and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine event permit are specifically excluded from further analysis and documentation under those sections.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add temporary § 100.35–T05–009 to read as follows:

§ 100.35–T05–009 Martin Lagoon, Middle River, Maryland.

(a) *Regulated area.* The regulated area includes all waters of Martin Lagoon that are north of a line drawn from latitude 39°19′34″ N, 076°25′41″ W, thence to a position located at 39°19′33″ N, 076°25′33″ W. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 11 p.m. on May 12, 2007. If the marine event is postponed due to weather, then the temporary special local regulations will be enforced during the same time period on May 13, 2007.

Dated: March 29, 2007.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–6781 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–011]

RIN 1625–AA00

Safety Zone; Michigan Aerospace Challenge, Muskegon Lake, Muskegon, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Muskegon Lake near Muskegon, MI. This zone is intended to restrict vessels from a portion of the Muskegon Lake during the Michigan Aerospace Challenge Rocket Launch. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with sport rockets.

DATES: This rule is effective from 8 a.m. (local) to 6 p.m. (local) on April 28, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–07–011 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin, 53207 between 8 a.m. (local) and 3 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CWO Brad Hinken, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a sport rocket launch. Based on the explosive and missile hazards of sport rockets, the Captain of the Port Lake Michigan has determined sport rocket launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the rocket launch site will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a sport rockets in conjunction with the Michigan Aerospace Challenge Rocket Launch. The rocket launch will occur between 8 a.m. (local) and 6 p.m. (local) on April 28, 2007.

The safety zone for the rocket launch will encompass all waters and adjacent shoreline of Muskegon Lake and within the arc of a circle with a 1500-yard radius from the rocket launch site located at the West Michigan Dock and Market Corp facility with its center in position 43°14′21″ N, 086°15′35″ W (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Muskegon Lake near Muskegon, Michigan between 8 a.m. (local) and 6 p.m. (local) on April 28, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only ten hours for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD,

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–011 is added as follows:

§ 165.T09–011 Safety zone; Michigan Aerospace Challenge, Muskegon Lake, Muskegon, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Muskegon Lake and within the arc of a circle with a 1500-yard radius from the rocket launch site located at the West Michigan Dock and Market Corp facility with its center in position 43°14′21″ N, 086°15′35″ W (NAD 83).

(b) *Effective period.* This regulation is effective from 8 a.m. (local) on April 28, 2007 to 6 p.m. (local), on April 28, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

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

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

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

Dated: March 31, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Commander, Coast Guard Sector Lake Michigan.

[FR Doc. E7–6777 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–07–034]

RIN 1625–AA00

Safety Zone; Fireworks Display, Potomac River, Oxon Hill, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone upon certain waters of the Potomac River during a fireworks display. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge, located in a cove near Oxon Hill, Maryland. This action will restrict vessel traffic in a portion of the Potomac River.

DATES: This rule is effective from 8 p.m. to 10 p.m. on May 31, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of this docket and are available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. There was insufficient time to allow for the publication of an NPRM followed by a temporary final rule before the effective date. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with Fireworks Displays.

Background and Purpose

Each year, thousands of spectators attend outdoor fireworks displays discharged from vessels or floating platforms on or near the navigable waters of the United States. Accidental discharge of fireworks and falling hot embers are a safety concern during such events. The Coast Guard has the authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard is establishing a safety zone that will be enforced during a fireworks display held over the Potomac River, in a cove near Oxon Hill, Maryland. The rule is needed to control movement through a portion of the waterway that is expected to be populated by vessels seeking to view the fireworks display.

Discussion of Proposed Rule

On May 31, 2007, the Peterson Companies, National Harbor, will sponsor a fireworks display launched from a barge located on the Potomac River near Oxon Hill, in Prince George's County, Maryland. The planned event includes an aerial fireworks display beginning at 9 p.m. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to falling embers or other debris associated with a fireworks display from a barge. This rule establishes a safety zone on

the waters of the Potomac River, within a radius of 150 yards around a fireworks barge, which will be located at position latitude 38°47′24.2″ N, longitude 077°01′18.7″ W. The Coast Guard anticipates a spectator fleet during this event. The rule will impact the movement of all vessels operating in a specified area of the Potomac River. Interference with normal port operations is unlikely; however, if required, will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities: The owners or operators of vessels intending to operate, remain or anchor within certain waters of the Potomac River, within a radius of 150 yards around a fireworks barge located at position latitude 38°47′24.2″ N, longitude 077°01′18.7″ W, from 8 p.m. to 10 p.m. on May 31, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for two hours, commercial vessel traffic in this area is limited, vessels not constrained by their draft may proceed safely around the safety zone, and the Coast Guard will issue maritime advisories widely available to users of the river before the effective period.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–034 to read as follows:

§ 165.T05–034 Safety zone; Fireworks Display, Potomac River, Oxon Hill, MD.

(a) *Location.* The following area is a safety zone: All waters of the Potomac River near Oxon Hill, Maryland, surface to bottom, within a radius of 150 yards around a fireworks barge which will be located at position latitude 38° 47′ 24.2″ N, longitude 077° 01′ 18.7″ W. All coordinates reference Datum NAD 1983.

(b) *Definition.* As used in this section the Captain of the Port Baltimore means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* The general regulations governing safety zones, found in § 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Captain of the Port, Baltimore, Maryland.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF channel 16 (156.8 MHz).

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Enforcement period.* This section will be enforced from 8 p.m. to 10 p.m. on May 31, 2007.

Dated: April 2, 2007.

Jonathan C. Burton,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. E7–6784 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AE87

Per Diem for Nursing Home Care of Veterans in State Homes; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendment.

SUMMARY: This document contains a minor correction to the final regulation that the Department of Veterans Affairs (VA) published in 65 FR 23412 on January 6, 2000. The regulation relates to the payment of per diem to State homes that provide nursing home care to eligible veterans.

DATES: *Effective date:* April 11. 2007.

FOR FURTHER INFORMATION CONTACT: Candice Cornish, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273–9957.

SUPPLEMENTARY INFORMATION: The VA published a document in the **Federal Register** on January 6, 2000, 65 FR 23412, revising its medical regulations concerning payment of per diem to State homes that provide nursing home care to eligible veterans. In that document, we failed to properly punctuate the end of § 17.190(c). This document corrects that error by removing '', and'' and adding, in its place, a period.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Robert C. McFetridge,

Assistant to the Secretary for Regulation Policy and Management.

■ For the reason set out in the preamble, VA is correcting 38 CFR part 17 as follows.

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as stated in specific sections.

§ 17.190 [Corrected]

■ 2. In § 17.190, paragraph (c) is amended by removing '', and'' and adding, in its place, a period at the end of the paragraph.

[FR Doc. E7–6762 Filed 4–10–07; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0576; FRL–8121–3]

Tetraconazole; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of tetraconazole in or on peanut, pecan, sugarbeet and soybean. Sipcam Agro USA, Inc. and Isagro S.p.A. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective April 11, 2007. Objections and requests for hearings must be received on or before June 11, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–

OPP–2006–0576. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Lisa Jones, Fungicide Branch, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9424; e-mail address: *jones.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0576 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before June 11, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0576, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of July 26, 2006 (71 FR 42392) (FRL–8074–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5F6971) by Isagro S.p.A., 430 Davis Dr., Suite 240, Morrisville, NC 27560. The petition requested that 40 CFR 180.557 be amended by establishing a tolerance for residues of the fungicide, tetraconazole, 1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-tetrafluoroethoxy)propyl]-1H-1,2,4-triazole] in or on soybean, seed at 0.1 parts per million (ppm), soybean, aspirated grain fractions/soybean, refined oil at 0.5 ppm, poultry, fat at 0.05 ppm, and poultry, egg/liver/meat/meat byproducts at 0.01 ppm. That notice referenced a summary of the petition prepared by Isagro S.p.A., the registrant, which is available to the public in the docket, *http://www.regulations.gov*. One comment was received on the notice of filing. EPA's response to this comment is discussed in Unit IV.C. below.

In the **Federal Register** of December 20, 2006 (71 FR 76321) (FRL–8104–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 6F7084, 9F6023, 9F5066) by Sipcam Agro USA, Inc., Colonial Center Parkway, # 230, Roswell, GA 30076. Petition 6F7084 requested that 40 CFR 180.557 be amended by establishing tolerances for residues of the fungicide tetraconazole in or on pecan at 0.05 ppm. Petition 9F6023 requested that 40 CFR 180.557 be amended by establishing tolerances for residues of the fungicide tetraconazole in or on the food commodities peanut, nutmeat at 0.05 ppm, and peanut, refined oil at 0.15 ppm. Petition 9F5066 requested that 40 CFR 180.557 be amended by revising the existing tolerances for residues of the fungicide tetraconazole in or on sugarbeet roots at 0.05 ppm, sugarbeet top at 3.0 ppm, sugarbeet dried pulp at

0.15 ppm, sugarbeet molasses at 0.15 ppm, meat of cattle, goat, horse, and sheep at 0.05 ppm, liver of cattle, goat, horse, and sheep at 4.0 ppm, fat of cattle, goat, horse, and sheep at 0.30 ppm, meat byproducts except liver of cattle, goat, horse and sheep at 0.10 ppm and milk at 0.05 ppm. That notice referenced a summary of the petition prepared by Sipcam Agro USA, Inc., the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of tetraconazole. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of April 22, 2005 (70 FR 20821), (FRL–7702–4).

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for tetraconazole used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 22, 2005 (70 FR 20821) (FRL–7702–4).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to, EPA considered exposure under the petitioned-for tolerances as well as all existing tolerances in (40 CFR 180.557). EPA assessed dietary exposures from tetraconazole in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. An acute endpoint was not identified for the general population. In estimating acute dietary exposure for females aged 13 to 49, EPA used food consumption information from the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed that all food and feed commodities with established and proposed tolerances contain tolerance-level residues and that 100% of crops were treated.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Nationwide CSFII. As to residue levels in food, EPA relied upon empirical processing factors, average field trial residues for all crops and average residues in meat and meat by-products derived from feeding studies. Percent crop treated information was not used.

iii. *Cancer*. In conducting the cancer dietary risk assessment, EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. The refined dietary cancer risk assessment used empirical processing factors, average field trial residues for all crops, average residues in meat and meat by-products derived from feeding studies and projected percent crop treated estimates for peanuts, soybean and sugarbeets.

iv. *Anticipated residue and percent crop treated (PCT) information*. Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such Data Call-Ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

a. The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue;

b. The exposure estimate does not underestimate exposure for any significant subpopulation group; and

c. Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

EPA estimates projected percent crop treated (PPCT) for a new pesticide use by initially assuming that the percent crop treated (PCT) during the pesticide's initial 5 years of use on a specific use site will not exceed the average PCT of the market leader (i.e., the one with the greatest PCT) on that site. EPA also examines all other available data to determine if this method of projecting percent crop treated produces a reliable estimate.

The Agency used PPCT information for the cancer dietary exposure assessment as follows: Peanuts - 77%; sugar beets - 70%; and soybeans - 27%.

The PPCT for peanuts was determined by averaging the PCTs of the leading fungicide, in this case, chlorothalonil, for the three most recent available years (1991, 1999 and 2004). These data show 77% PPCT based on average market leader values.

The PPCT for sugar beets was determined as the PCT of the leading fungicide, in this case, tetraconazole itself, for the year 2000, based on its use on sugar beets following registration under Section 18 of FIFRA for use in seven states (Colorado, Michigan, Minnesota, Montana, Nebraska, North Dakota, and Wyoming). Tetraconazole is the current market leader (55%) in those seven states where it is currently used. However, the acreage potentially treated by tetraconazole rises by 18% when four other sugarbeet growing states (California, Idaho, Oregon and Washington) are also considered. Treating all the planted acreage in these four additional states with tetraconazole could bring the PPCT up to 70%.

The PPCT for soybeans was determined using a modified approach. Due to the discovery of a new and important disease on soybeans (Asian soybean rust), historical information was not considered useful for estimating PCT for soybeans. PCT estimates were obtained for future market leaders from soybean crop specialists. For a conservative estimate EPA utilized only the maximum projected values provided by each respondent, which ranged from 15 to 38%. These values translated into average and maximum PPCT values of 27 and 38%, respectively. EPA's evaluation of the basis for these estimates and other factors bearing on the potential use of tetraconazole show that it is unlikely that these estimates will be exceeded.

The Agency believes that the three conditions listed in the second paragraph of Unit III.C.1.iv have been met. With respect to Condition 1, the data relied upon is discussed above. Where EPA relies on PCT data on existing uses, EPA typically uses the United States Department of Agriculture, National Agricultural Statistical Service (USDA/NASS) as the primary source for PCT data. When a specific use site is not surveyed by USDA/NASS, EPA uses other sources including proprietary data and calculates the PCT. Comparisons are only made among pesticides of the same pesticide types (i.e., the leading fungicide on the use site is selected for comparison with the new fungicide). The PCTs included in the average may be for the same pesticide, or for different pesticides, since the same, or different pesticides, may dominate for each year selected. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which tetraconazole may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for tetraconazole in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of tetraconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentrations in Groundwater (SCI-GROW) models, the estimated environmental concentrations (EECs) for acute exposures are estimated to be 20.01 parts per billion (ppb) for surface water. The EECs for chronic exposures are estimated to be a yearly average of 7.26 ppb for surface water and 1.79 ppb for ground water and a 30–year annual average of 4.97 for surface water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 20.01 ppb was used to access the contribution to drinking water. For chronic and cancer dietary risk assessment, the water concentration of value 4.97 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Tetraconazole is not registered for use on any sites that would result in residential exposure.

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

Tetraconazole is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same,

or essentially the same, sequence of major biochemical events (EPA, 2002). In conazoles, however, a variable pattern of toxicological responses is found. Some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

Triazole-derived pesticides can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazolylalanine and triazolylacetic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including tetraconazole, EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazolylalanine and triazolylacetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide as of September 1, 2005. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (i.e., high end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X FQPA safety factor for the protection of infants and children. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment is found in the propiconazole reregistration docket at *http://www.regulations.gov*, Docket Identification (ID) Number EPA–HQ–OPP–2005–0497.

For tetraconazole, the new use on pecans was not received by the Agency prior to September 1, 2005, and therefore, was not included in the human health risk assessment for exposure to 1,2,4-triazole, triazolylalanine and triazolylacetic acid. The Agency has evaluated the additional dietary risk from 1,2,4-triazole and the two conjugates resulting from the use of tetraconazole on pecans in the Agency's human health risk assessment for tetraconazole. The Agency has determined that dietary exposure to 1,2,4-triazole, triazolylalanine and triazolylacetic acid does not exceed the Agency's level of concern.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional (10X) tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rat or rabbit fetuses to *in utero* exposure to tetraconazole. In the developmental toxicity study in rats, developmental effects were seen at the same dose that induced maternal toxicity. In the developmental toxicity study in rabbits, no developmental toxicity was seen at the highest dose tested. In the 2–generation reproduction study, offspring toxicity occurred at doses higher than the dose that induced parental/systemic toxicity. There are no concerns or residual uncertainties for prenatal and/or postnatal toxicity. Additionally, there is no concern for neurotoxicity resulting from exposure to tetraconazole since there was no evidence of neurotoxicity in short-term studies in rats, mice and dogs; and a long-term toxicity study in dogs.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for tetraconazole is complete.

ii. There is no indication that tetraconazole is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that tetraconazole results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The assumptions and estimates used to model ground and surface water concentrations are discussed in Unit III.C.2 and the assumptions and estimations underlying the dietary food exposure assessments are discussed in Unit III.C.1. These assessments will not underestimate the exposure and risks posed by tetraconazole.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to tetraconazole will occupy <1.0% of the aPAD for the population group (females 13-49 years old) receiving the greatest exposure. No acute toxicity endpoint was identified for the remaining population subgroups.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to tetraconazole from food and water will utilize ≤10.1% of the cPAD for the population group all infants <1 year old. There are no residential uses for tetraconazole that result in chronic residential exposure to tetraconazole. Based on the use pattern, chronic residential exposure to residues of tetraconazole is not expected.

3. *Short-term and intermediate-term risk*. Short-term and intermediate-term aggregate exposure take into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Tetraconazole is not registered for use on any sites that would result in residential exposure. Therefore, the

aggregate risk is the sum of the risk from food and water.

4. *Aggregate cancer risk for U.S. population*. The estimated cancer risk for the proposed use of tetraconazole on sugarbeets, peanuts, pecans and soybeans is 3 x 10^{-6}. EPA considers risk estimates as high as 3 x 10^{-6} to be within the negligible risk range of 1 x 10^{-6}. This aggregate risk is the sum of the risk from food and water.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (capillary gas chromatography withelectron capture detector (GC/ECD)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no established Codex, Canadian, or Mexican Maximum Residue Limits (MRLs) established for tetraconazole in or on the relevant crops and commodities.

C. Response to Comments

One comment was received from a private citizen objecting to the establishment of tolerances for tetraconazole. The Agency has received similar comments from this commenter on numerous previous occasions. Refer to **Federal Register** 70 FR 37686 (June 30, 2005), 70 FR 1354 (January 7, 2005), 69 FR 63096-63098 (October 29, 2004) for the Agency's response to these objections. In addition, the commenter noted several adverse effects seen in animal toxicology studies with tetraconazole and claims because of these effects no tolerance should be approved. However, EPA found in its tetraconazole risk assessment that there is a reasonable certainty of no harm to humans after considering the toxicological studies (and the adverse effects seen therein) and the exposure levels of humans to tetraconazole. The commenter did not provide any information that questioned EPA's risk assessment.

V. Conclusion

Upon completing the review of the current tetraconazole database, the Agency concluded that tolerances for hog meat commodities are necessary as a result of concern for secondary residues, and a sugar beet top tolerance is unnecessary since it is not a human food commodity and is being eliminated as a feed commodity from OPPTS 860.1000. The Agency concluded that the appropriate tolerance levels and preferred commodity terms for tetraconazole residues in or on pending crops and livestock commodities should be established as follows:

Tolerances are established for residues of tetraconazole in or on beet, sugar, root at 0.05 ppm; beet, sugar, dried pulp at 0.15 ppm; beet, sugar, molasses at 0.15 ppm; peanut at 0.03 ppm; peanut, oil at 0.10 ppm; pecan at 0.04 ppm; soybean, seed at 0.15 ppm; soybean, refined oil at 0.80 ppm; aspirated grain fractions at 1.0 ppm; poultry, meat at 0.01 ppm; poultry, fat at 0.05 ppm; poultry, meat byproducts at 0.01 ppm; eggs at 0.02 ppm; cattle, meat at 0.01 ppm; cattle, liver at 0.20 ppm; cattle, fat at 0.02 ppm; cattle, meat byproducts (except liver) at 0.01 ppm; milk at 0.01 ppm; milk, fat at 0.25 ppm; goat, meat at 0.01 ppm; goat, liver at 0.20 ppm; goat, fat at 0.02 ppm; goat, meat, byproducts (except liver) at 0.01 ppm; hog, meat at 0.01 ppm; hog, liver at 0.05 ppm; hog, fat at 0.01 ppm; hog, meat byproducts (except liver) at 0.01 ppm; horse, meat at 0.01 ppm; horse, liver at 0.20 ppm; horse, fat at 0.02 ppm; horse, meat, byproducts (except liver) at 0.01 ppm; sheep, meat at 0.01 ppm; sheep, liver at 0.20 ppm; sheep, fat at 0.02 ppm; sheep, meat, byproducts (except liver) at 0.01 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq*., generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller

General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: April 2, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.557 is amended by revising paragraph (a), and removing and reserving paragraphs (b) and (c) to read as follows.

§ 180.557 Tetraconazole; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide, tetraconazole, 1-[2-(2,4-dichlorophenyl)-3-(1,1,2,2-tetrafluoroethoxy)propyl]-1*H*-1,2,4-triazole in or on the following commodities:

Commodity	Parts per million
Aspirated grain fractions	1.0
Beet sugar, dried pulp	0.15
Beet sugar, molasses	0.15
Beet sugar, root	0.05
Cattle, fat	0.02
Cattle, liver	0.20
Cattle, meat	0.01
Cattle, meat byproducts (except liver)	0.01
Eggs	0.02
Goat, fat	0.02
Goat, liver	0.20
Goat, meat	0.01
Goat, meat byproducts (except liver)	0.01
Hog, fat	0.01
Hog, liver	0.05
Hog, meat	0.01
Hog, meat byproducts (except liver)	0.01
Horse, fat	0.02
Horse, liver	0.20
Horse, meat	0.01
Horse, meat byproducts (except liver)	0.01
Milk	0.01
Milk, fat	0.25
Peanut	0.03
Peanut, oil	0.10
Pecan	0.04
Poultry, fat	0.05
Poultry, meat	0.01
Poultry meat byproducts	0.01
Sheep, fat	0.02
Sheep, liver	0.20
Sheep, meat	0.01
Sheep, meat byproducts (except liver)	0.01
Soybean, refined oil	0.80
Soybean, seed	0.15

(b) *Section 18 emergency exemptions.* [Reserved].

(c) *Tolerances with regional registrations.* [Reserved].

* * * * *

[FR Doc. E7–6837 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02; I.D. 040407C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, April 10, 2007, until 12:01 a.m., July 1, 2007.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, telephone: 727–824–5305, fax: 727–824–5308, e-mail: *Steve.Branstetter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast and west coast subzones. The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4′ N. lat. (a line directly east from the Miami-Dade/Monroe County, FL, boundary) along the west coast of Florida to 87°31.1′ W. long. (a line directly south from the Alabama/Florida boundary). The Florida west coast subzone is further divided into a northern and southern subzone. The southern subzone is that part of the Florida west coast subzone, which from November 1 through March 31 extends south and west from the Miami-Dade/Monroe County boundary to 25°20.4′ N. lat. to 26°19.8′ N. lat.(a line directly west from the Lee/Collier County, FL, boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8′ N. lat. and 25°48′ N. lat.(a line directly west from the Monroe/Collier County, FL, boundary), i.e., the area off Collier County. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with run-around gillnets and hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(*2*)(*i*)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the **Federal Register**. NMFS has determined that the commercial quota of 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the southern Florida west coast subzone has been met. Accordingly, the commercial fishery for king mackerel for such vessels in the southern Florida west coast subzone is closed at 12:01 a.m., local time, April 10, 2007, through 12:01 a.m., July 1, 2007, the beginning of the next (2007 - 2008) fishing season.

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 prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30 day delay in effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: April 6, 2007.

Alan D. Risenhoover,

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

[FR Doc. 07–1801 Filed 4–6–07; 2:40 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01; I.D. 040607B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher 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 prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 second seasonal allowance of the Pacific cod total allowable catch (TAC) specified for catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 9, 2007, through 1200 hrs, A.l.t., June 10, 2007.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone 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 2007 second seasonal allowance of the Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 3,711 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007), for the period 1200 hrs, A.l.t., April 1, 2007, through 1200 hrs, A.l.t., June 10, 2007. See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(B).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 second seasonal allowance of the Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,691 mt, and is setting aside the remaining 20 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI.

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 Pacific cod by catcher 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 April 5, 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 § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: April 6, 2007.

Alan D. Risenhoover

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

[FR Doc. 07–1802 Filed 4–6–07; 2:40 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 69
Wednesday, April 11, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 25, 33, and 35

[Docket No. FAA 2007–27310; Notice No. 07–04]

RIN 2120–AI95

Airworthiness Standards; Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) is proposing to revise the airworthiness standards for the issuance of original and amended type certificates for airplane propellers. The existing propeller requirements do not adequately address the technological advances of the past twenty years. The proposed standards would address the current advances in technology and would harmonize FAA and European Aviation Safety Agency (EASA) propeller certification requirements, thereby simplifying airworthiness approvals for imports and exports.

DATES: Comments must be received on or before June 11, 2007.

ADDRESSES: You may send comments, identified by Docket No. FAA–2007–27310, using any of the following methods:

DOT Docket Web site: Got 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 20590–001

Fax: 1–202–493–2251

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

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information that you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jay Turnberg, Engine and Propeller Directorate Standards Staff, ANE–110, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7116; facsimile (781) 238–7199, e-mail: *jay.turnberg@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in rulemaking by submitting written data, views, or arguments on this proposed rule. We also invite comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing 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*.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of NPRMs

You can get an electronic copy using the Internet by:

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

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

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

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

Background

Advances in technology have meant that many propeller certification programs over the past decade have required repeated application of special conditions or special tests. In addition, the need to demonstrate compliance with both FAA and EASA requirements has placed additional burdens on propeller manufacturers who require

foreign certification. Therefore, we concluded that part 35 should be substantially revised.

In 1994, the FAA began an initiative to harmonize FAA propeller certification requirements with Europe's Joint Aviation Authorities (JAA) regulations (now the EASA certification specifications). As part of this effort, the FAA tasked the Aviation Rulemaking Advisory Committee through its Engine Harmonization Working Group (EHWG) to compare part 35 with JAA requirements, and identify differences. The EHWG was also to update existing requirements to reflect advancements in propeller design, including design and construction of composite material propellers, propeller control systems (such as dual acting control systems), and electronic controls for propellers.

To complete this task, the EHWG established the Propeller Harmonization Working Group, with members from industry and government from Canada, France, Germany, United Kingdom, and the United States. The Propeller Harmonization Working Group focused on requirement differences between part 35 and Joint Aviation Requirements—Propellers (JAR–P) in six areas:

1. Those in part 35, but not in JAR–P;
2. Those in both part 35 and JAR–P, but not accepted as equivalent for both;
3. Those accepted as equivalent for both part 35 and JAR–P;
4. Those in which intent is not clear;
5. Those that may be simplified or deleted; and
6. Those that are new requirements not in either part 35 or JAR–P.

This NPRM proposes to harmonize FAA part 35 propeller certification requirements with most of the requirements of EASA's Certification Specifications for Propellers (CS–P).

Reference Material

We relied on the following material as a basis for this proposed rule:

1. Special Conditions No. 35–ANE–01, Hamilton Standard Model 247F Propeller, Docket No. 94–ANE–50.
2. Special Conditions No. 35–ANE–02, Hamilton Standard Model 568F Propeller, Docket No. 94–ANE–60.
3. Special Conditions No. 35–ANE–03, Hamilton Standard Model 568F Propeller, Docket No. 94–ANE–61.
4. Special Conditions SC–92–03–NE, Hartzell Propeller, Inc. Model HD–E6C–3( )/E13482K Dual Acting Propeller, Docket No. 92–ANE–47.
5. Joint Airworthiness Requirements—Propellers, JAR–P, Change 7, October 22, 1987.
6. Certification Specifications for Propellers (CS–P), Decision No. 2003/7/RM, October 24, 2003.
7. 14 CFR Part 21, Certification Procedures for Products and Parts.
8. 14 CFR Part 23, Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes.
9. 14 CFR Part 25, Airworthiness Standards: Transport Category Airplanes.
10. 14 CFR Part 33, Airworthiness Standards: Engines.
11. 14 CFR Part 35, Airworthiness Standards: Propellers.

Section-by-Section Discussion of the Proposals

Sections 23.905 and 25.905 Propellers and Section 33.19 Durability

We propose requiring that propeller controls that are certified as part of the airplane or engine type design meet the same requirements as propeller controls that are certified as part of the propeller type design.

Sections 23.907 and 25.907 Propeller Vibration and Fatigue

We propose revising §§ 23.907 and 25.907 to make them identical, and changing the titles of both sections from ''Propeller vibration'' to ''Propeller vibration and fatigue,'' to reflect the revised requirements.

These sections require that a propeller demonstrate safe vibration compatibility with the airplane; they harmonize with CS–P 530, Vibration and Aeroelastic Effects and CS–P 550, Fatigue Evaluation. The vibration evaluation of a propeller on an airplane involves both vibration and fatigue requirements. The vibration evaluation of the propeller depends on the airplane and engine installation; the proposed requirements would show this dependency.

The current requirements differ for part 23 and 25 airplanes and fail to address important areas. They do not address fatigue evaluation or require comparison to the fatigue limits and other structural data established in part 35. They do not require a revision of the propeller operating and airworthiness limitations, and they fail to address the flutter requirements of EASA's Certification Specifications for Propellers (CS–P). In the case of § 23.907, they permit the use of service experience to show compliance, which is an unsatisfactory method to show the safety of the installation.

Our proposed new paragraph (a) for §§ 23.907 and 25.907 would require that applicants determine the stresses throughout the declared operational envelope of the airplane. It would permit applicants to determine stresses by analysis based on direct testing or by interpolation and measured data extrapolation if testing the entire airplane operational envelope is not feasible. The paragraph would also permit the determination of stress by comparison with a similar airplane for which these measurements were made. Our proposed paragraph, however, would not permit the use of service experience to determine stresses.

Proposed paragraph (a) harmonizes with CS–P 530(b) by requiring that applicants investigate stress peaks or resonant conditions.

Proposed paragraph (b) harmonizes with CS–P 530(a) by requiring that applicants address flutter.

Proposed paragraph (c) would harmonize with CS–P 550 by requiring that applicants conduct a fatigue evaluation on the propeller. It would also harmonize with CS–P 550 by requiring that applicants revise the airplane and propeller operating and airworthiness limitations sections as needed to show compliance with the fatigue requirements.

Prior to the propeller vibration and fatigue evaluation for the airplane installation, the propeller undergoes a substantial amount of structural evaluation during its certification to show compliance with part 35. Proposed paragraph (c) would require that the data obtained from the part 35 evaluation be used in the propeller fatigue evaluation.

Section 25.901 Installation

We propose to add a reference in this section to the propeller installation instructions in § 35.3 to ensure that part 25 airplane comply with the installation instructions for the propeller.

Part 35—Airworthiness Standards: Propellers

We propose to renumber certain part 35 regulations to harmonize part 35 with EASA's CS–P. Part 35 designation will differ from the CS–P designation by a zero added to the CS–P designation. For example, our proposed § 35.35 Centrifugal load tests will be equivalent to the CS–P 350 Centrifugal Load Tests.

Subpart A—General

This subpart addresses the requirements for issuing propeller type certificates and changes to those type certificates. Our proposed revisions clarify the propeller configuration to be certificated; list the requirements for installing and operating the propeller; and specify ratings and operating limitations.

Section 35.1 Applicability

We propose adding a new paragraph (c) to establish the relationship between propeller and airplane certification.

We propose adding a paragraph (d) to refine the propeller definition for this part. Paragraph (d) would define a propeller and propeller system consistent with how those terms are used in part 35.

Section 35.2 Propeller Configuration and Identification

We propose a new § 35.2(a) that would require the applicant to provide a list of all the components and parts, including references to the relevant drawings and software design data, that defines the type design of the propeller the applicant wants approved. This requirement would improve the documentation regarding the propeller components that is included within the propeller type design.

We propose a new § 35.2(b) that would reinforce the link between parts 35 and 45 and harmonize with the CS–P.

Section 35.3 Instructions for Propeller Installation and Operation

We propose to revise § 35.3 to require specific content in propeller installation and operation instructions. The revision would require applicants to prepare installation instructions containing the data required by the airplane manufacturer to install and operate the propeller within the limitations of the propeller type design.

The proposed revision would rename § 35.3 to ''Instructions for propeller installation and operation'' to reflect the revised requirements.

Section 35.5 Propeller Ratings and Operating Limitations

We propose revising § 35.5 by modifying the requirements about establishing ratings and operating limitations. In our proposed paragraph (a), the applicant would establish the ratings and operating limitations, which would be subject to approval by the Administrator. This change reflects the process used now to establish the propeller limitations and ratings.

We propose adding paragraph (b), which lists specific ratings and limits applicants must address. The list would include ratings for takeoff power and rotational speed, maximum continuous power and rotational speed. The proposed paragraph would also document transient overspeed and overtorque limits that would not require maintenance. The overspeed and overtorque limits are intended for inadvertent or maintenance use.

Our proposed list in paragraph (b) does not represent all the ratings and operating limits that may be required for safe propeller operation. Paragraph (a) would state that the ratings and operating limitations must include limitations based on the operating conditions demonstrated during the tests required by this part and any other information necessary for safe propeller operation.

We propose changing the title of § 35.5 to ''Propeller ratings and operating limitations'' to reflect the revised requirements and to harmonize with CS–P 50, Propeller Ratings and Operating Limitations.

Section 35.7 Features and Characteristics

We propose a new § 35.7 that will incorporate requirements formerly in § 35.15, Design features.

The proposed § 35.7(a) requires that a propeller not have any features or characteristics that make it unsafe for the purposes for which it is being certified.

The proposed § 35.7(b) indicates the applicant's responsibilities if a failure occurs during a certification test.

Subpart B—Design and Construction

Part 35 subpart B addresses design and construction requirements for propellers. This proposed revision would maintain the intent of the current subpart. We propose, however, to remove sections that are redundant or no longer applicable and to revise or add sections that address existing and future design and construction technology not adequately covered by the current requirements.

Section 35.11 Applicability

Section 35.11 is a descriptive statement about subpart B compliance that is fully addressed within § 35.1. Therefore, we propose to remove § 35.11 and mark the section ''reserved.''

Section 35.13 General

Section 35.13 is a descriptive statement about subpart B compliance that is fully addressed within § 35.1. Therefore, we propose to remove § 35.13 and mark the section ''reserved.''

Section 35.15 Safety Analysis

We propose to revise § 35.15, Design features, and rename it ''Safety analysis'' to reflect its revised requirements.

Our proposed revision would require that applicants conduct a safety analysis of the propeller. Safety analysis has been used to show compliance with the current requirement for the majority of new propeller certification programs during the past decade. The ultimate objective of the safety analysis is to ensure that the collective risk from all propeller failure conditions is acceptably low. The basis of safety analysis is the concept that an acceptable total propeller design risk is achievable by managing individual risks to acceptable levels. This concept emphasizes reducing the risk of an event proportionally with the severity of the hazard it represents.

Our proposed revision would add definitions for hazardous and major propeller effects, based on CS–P, historical JAR–P requirements, and the propeller special conditions listed under ''Reference Material.'' These definitions would be used throughout part 35 and would only apply to this part.

Showing compliance with the requirements of this section would not mean that a propeller is suitable for use on all or any airplane. For example, a part 25 airplane may require different failure effects and probabilities of failure than a part 23 airplane would.

Section 35.17 Materials and Manufacturing Methods

We propose to revise and rename this section from ''Materials'' to ''Materials and manufacturing methods'' to reflect the revised requirements. Our proposed revision would require that the materials specifications and manufacturing methods used by applicants be acceptable to the FAA. The revision would remove the list of examples of approved specifications and change the word ''approved'' to ''acceptable.'' This change would reflect the level of review of the specifications by the FAA.

Our proposed revision would also require that applicants consider the effects of environmental conditions expected in service when assessing material suitability and durability. We are including consideration for environmental effects in this proposed section because many materials used in the propeller design depend on the environment in which the propeller operates. This is especially relevant for composite materials that have age-dependent properties, as well as properties affected by humidity and temperature.

Our proposed revision would also harmonize with CS–P requirements by requiring that applicants use the most adverse properties stated in the accepted specifications of their design values. This clarification would prevent misinterpretations regarding the

application of material properties to the propeller design.

Section 35.21 Variable and Reversible Pitch Propellers

We propose to revise and rename this section to from ''Reversible propellers'' to ''Variable and reversible pitch propellers'' to reflect the revised requirements. The revision would incorporate the current pitch control and indication requirements of § 35.23(c). It would also expand the current § 35.23(c) requirement to include all airplane installations with reversible propellers, including reciprocating engine aircraft, because the flight safety aspect of this rule applies regardless of engine type. Proposed § 35.21 harmonizes with CS–P 210, Variable and Reversible Pitch Propellers.

Section 35.22 Feathering Propellers

We propose a new § 35.22 that will incorporate requirements for feathering propellers currently located in § 35.23(b) and in CS–P 220, ''Feathering Propellers.'' We would incorporate the requirements of CS–P 220(a) into paragraph (a), which would require feathering propellers be designed to feather from all conditions in flight, taking into account expected wear and leakage. It would also require that applicants document the feathering characteristics and limitations in the appropriate manuals.

We would move the feathering requirements of the current § 35.23(b) to the new § 35.22(b).

We propose that the requirements of CS–P 220(c) be incorporated into paragraph (c). This paragraph would require the applicant to design the propeller to be capable of unfeathering at the minimum declared outside air temperature after stabilization to a steady-state temperature.

Section 35.23 Propeller Control System

We propose to revise and rename § 35.23 from ''Pitch control and indication'' to ''Propeller control system'' to reflect the revised requirements and to harmonize with CS–P 230. We would retain and revise current paragraph (a), redesignate and revise current paragraph (c) as § 35.21(b), redesignate and revise current paragraph (b) as § 35.22(b), and add several new paragraphs.

Our proposed § 35.23 would address propeller control design requirements concerning loss of normal control that may cause hazardous overspeeding and an alternative means to override or bypass the engine oil system for propellers that use engine oil to feather. It would also add requirements that address control system description, design, construction, validation, and software design, for all types of propeller mechanical, hydraulic, and electronic control systems.

Our proposed § 35.23(a)(1) would ensure that the control system, operating in normal and alternative modes and transitions between operating modes, performs the intended functions throughout the declared operating conditions and flight envelope. This requirement does not mandate flight test on an airplane. Substantiation by propeller tests, rig tests, airplane tests, analysis or a combination of these would be acceptable.

Our proposed § 35.23(a)(2) would ensure that the control system functionality is not adversely affected by declared environmental conditions.

Our proposed § 35.23(a)(3) would ensure that applicants provide methods to indicate to the flight crew, if crew action is required, that a mode change has occurred.

Our proposed § 35.23(b) would add system safety requirements in addition to those in § 35.15. Paragraph (b)(1) would require that no single failure or malfunction of electronic or electrical components result in a hazardous propeller effect. Paragraph (b)(2) would address the relationship between failures of the linkages from the airplane to the propeller control, and the effects that airplane fires and overheating have on the propeller control. Paragraph (b)(3) would adopt the requirements of the current § 35.23(a). Paragraph (b)(4) would address the effect of isolation between propellers on an airplane.

Our proposed § 35.23(c) would add a requirement that all software be designed and implemented by a method approved by the FAA. It would require that the software design be consistent with the criticality of the performed functions to minimize the existence of software errors.

Our proposed § 35.23(d) would add requirements for airplane-supplied data so that no single failure or malfunction of airplane-supplied data would result in a hazardous propeller effect.

Our proposed § 35.23(e) would add requirements for airplane-supplied electrical power so that abnormalities of the power supply would not result in hazardous effects and would not require a declaration of the validated power supply characteristics.

Section 35.24 Strength

We propose adding a new § 35.24 to establish strength requirements for propellers consistent with those required by CS–P 240.

Subpart C—Type Substantiation

We propose to remove those regulations in this subpart that are redundant or no longer apply and to modify and add sections to reflect existing industry practices. We also propose to change the subpart heading from ''Tests and Inspections'' to ''Type Substantiation,'' since subpart C applies to both testing and analysis.

Section 35.31 Applicability

We propose to remove the content of § 35.31 and to mark the section ''reserved'' since § 35.31 is a descriptive statement about subpart C and not a requirement.

Section 35.33 General

Section 35.33(a) does not adequately address part 21 certification requirements. We propose, therefore, to revise § 35.33(a) to identify that the testing conducted in this subpart is also governed by the test requirements established in part 21.

We propose a new § 35.33(b) and (c) to harmonize with CS–P 330(b), which requires that automatic controls operate during tests. Our proposed § 35.33(b) would adopt this requirement and add that it also applies to propeller safety systems. Also, our proposed § 35.33(b) clarifies the conditions under which some tests may be conducted without the automatic controls or safety systems. For example, the applicant may have to disable a primary system to test a backup system.

CS–P 440 requires that applicants address potential safety issues that may occur if required testing does not adequately test a component during propeller certification. Our proposed § 35.33(c) would adopt this requirement.

Section 35.34 Inspections, Adjustments, and Repairs

We propose a new § 35.34 which would revise and incorporate inspection requirements from § 35.45 and the adjustment and repairs requirements from § 35.47.

We propose a new § 35.34(a) to harmonize with CS–P340 requirements for pre-test inspections. Our proposal moves the post-test inspection requirements of the existing § 35.45, Teardown inspection, and consolidates them here. Pre-test inspection establishes the condition of the test article prior to testing. This is particularly important for composite structures in which damage may be internal and not visible. If internal damage is present prior to the start of

the test, then the post-test inspection may not be valid without knowledge of the pre-test condition of the test article.

Our proposal also would relocate the existing requirements of § 35.47 to a new § 35.34(b), since the requirements in § 35.47 are related to testing.

Section 35.35 Centrifugal Load Tests

We propose revising § 35.35 and renaming it as ''Centrifugal load tests'' to reflect the revised requirements.

Our proposal would define requirements for the entire propeller and include consideration of material degradation expected in service. Material degradation considerations apply to all types of construction, but would be specifically added to address composite materials, which may absorb moisture or show some evidence of delamination prior to retirement from service.

We propose a § 35.35(a) that would require the hub, blade retention, and counterweights be tested to twice the centrifugal load for one hour. This test is designed to assure a suitable static strength margin above the maximum rated rotational speed.

Our proposed § 35.35(b) would require the transition in a composite blade from the composite material to the metallic retention be tested to twice the centrifugal load for one hour. This requirement would also apply to other types of construction in which a blade to retention transition occurs.

Our proposed § 35.35(c) would harmonize with CS–P 350 by requiring that lower energy debris for the entire propeller be evaluated at 159 percent of the maximum centrifugal load. The low energy debris would include spinners, de-icing equipment, blade erosion shields, and other assemblies used with or attached to the propeller.

Section 35.36 Bird Impact

We propose adding a new § 35.36 to part 35 to address bird impact with the propeller. Our proposed § 35.36 incorporates the use of special conditions for propellers with composite blades and would extend the bird impact certification requirement to all propeller designs, except fixed-pitch wood propellers of conventional design. Section 35.36 would exclude conventional fixed-pitch wood propellers because of their satisfactory experience. The new requirement would apply to metallic blades but would allow compliance by experience from similar designs.

Industry recognized the need for bird impact requirements when composite blades were introduced in the 1970s. The safety issues have been addressed by special tests and special conditions for composite blade certifications. These special conditions were unique for each propeller and effectively stated that the propeller must withstand a 4-pound bird impact without contributing to a major or hazardous propeller effect. The special tests and special conditions have been effective for over 50 million flight hours, and no accidents have been attributed to bird impact against composite propellers. The selection of a 4-pound bird is based on the extensive service history of blades that have been designed using the 4-pound bird criteria.

Section 35.37 Fatigue Limits and Evaluation

We propose to rename § 35.37 from ''Fatigue limit tests'' to ''Fatigue limits and evaluation'' and revise it to harmonize with CS–P 370, Fatigue Characteristics. The current requirement does not adequately address composite materials and is limited to hubs, blades, and primary load-carrying metal components of nonmetallic blades. Our proposed § 35.37 would expand the requirement to all materials and components (including controls system components, if applicable) whose failure would cause a hazardous propeller effect and also include environmental effects. It would retain the fatigue evaluation requirement in paragraph (b), but would require that the fatigue evaluation be conducted on the intended airplane in accordance with §§ 23.907 or 25.907 or on a typical airplane. Applicants may configure a typical airplane to develop design criteria for the propeller in those instances when the intended airplane installation is either unavailable or unknown at propeller type certification.

Section 35.38 Lightning Strike

We propose a new § 35.38, Lightning strike, to harmonize with CS–P 380, Lightning Strike. Part 35 currently has no lightning strike requirements. Our proposed § 35.38 requires that composite propellers withstand a lightning strike without contributing to a major or hazardous propeller effect. It also reflects current practices in the industry and the special tests and special conditions we issued for lightning strikes when composite blades were first introduced.

Our new § 35.38 would exclude conventional fixed-pitch wood propellers because of their satisfactory experience. This new requirement would apply to metallic blades but allow compliance by experience from similar designs.

Section 35.39 Endurance Test

We propose to revise § 35.39 to harmonize with CS–P 390. We would remove the existing 10-hour endurance block test from this section because testing one propeller at the greatest pitch and diameter for 10 hours is not adequate for a family of propellers. All current fixed-pitch propellers are being tested in accordance with the current 50-hour test requirement, which provides an adequate test.

The proposed revision would delete the requirement to test a propeller of the greatest diameter for which certification is requested. We are introducing this change because testing of the greatest diameter is restrictive and does not necessarily result in an increase in airworthiness.

Section 35.40 Functional Test

We propose to redesignate the current § 35.41 as § 35.40 to harmonize with CS–P 400, Functional Test.

Section 35.41 Overspeed and Overtorque

We propose a new overspeed and overtorque requirement to harmonize with CS–P 410(a). We will rename § 35.41 ''Overspeed and overtorque'' to reflect the revised requirements. Our proposal would require that applicants verify the declared transient overspeed and overtorque limits of the propeller.

Section 35.42 Components of the Propeller Control System

We propose to combine the current § 35.42(a) and (b) into a single paragraph and rename § 35.42 as ''Components of the propeller control system'' to reflect the revised requirements. We would expand the 1000-hour operation requirement to the initially declared inspection interval or to a minimum of 1000 hours.

Section 35.43 Propeller Hydraulic Components

We propose to revise the current § 35.43, Special tests, and rename it as ''Propeller hydraulic components'' to reflect the revised requirements. Our revision would delete the duplication common between § 35.43 and § 21.16 and would harmonize with CS–P 430.

The Propeller Harmonization Working Group determined that it is in the best interest of the public to require special conditions be issued and made available to the public when testing is required for unconventional features of design, material, or construction. We are, therefore, proposing to remove the special tests requirement of § 35.43.

Our proposed § 35.43 would add requirements for testing propeller

components that contain hydraulic pressure. These tests have been previously required by special condition or special tests under the current § 35.43. This proposal adopts the test procedures that are being conducted on applicable components.

Section 35.45 Reserved

We propose to revise § 35.45 by moving the teardown inspection requirements to § 35.34, as noted above, and to mark § 35.45 ''reserved.''

Section 35.47 Propeller Adjustments and Parts Replacements

We propose to revise § 35.47 by moving the propeller adjustment and repair requirements to § 35.34, as noted above, and to mark § 35.47 ''Reserved.''

Rulemaking Analyses and Notices

Authority for This Rulemaking

Title 49 of the U.S. 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, including minimum safety standards for aircraft engines. This proposed rule is within the scope of that authority because it updates the existing regulations for airplane propellers.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no current new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandate Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposal does not warrant a full evaluation, this order permits a statement to that effect. The basis for the minimal impact must be included in the preamble, if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for that determination follows.

To a great extent this proposed rule would require propeller manufacturers to certificate future production propellers for sale in the United States to the same European standards that these firms already meet. The European Aviation Safety Agency, the European equivalent to the FAA, became responsible for certification of aircraft, engines, parts and appliances on September 28, 2003 by Commission Regulation (EC) 1702/2003. Because the U.S. and European effort to have common certification propeller regulations was almost completed when EASA became operational, the proposed part 35 and the European propeller requirements CS–P are almost identical. CS–P is now an official rule of a foreign regulatory agency while this is a proposed rule. To export propellers to Europe, U.S. manufacturers now must meet the European requirements. Before Europe made these requirements, industry provided us with a cost estimate of $31 million over a 25-year analysis period for them to be in compliance with the FAA proposed propeller requirements which would have codified existing special tests and conditions. But as manufacturers are already in compliance with these now harmonized proposed requirements, there are no additional compliance costs.

This proposed rule has only one regulation stricter than EASA's CS–P. The FAA proposes to extend the current special condition 4-pound bird strike test for composite propeller blades. CS–P requires newly certificated propellers to withstand a 4-pound bird strike for equivalent part 25 airplanes. However, CS–P requires newly certificated propellers to withstand a 2.8-pound bird strike for equivalent part 23 commuter airplanes and does not require a bird strike test for other equivalent part 23 airplanes. U. S. propeller manufacturers provided us with their estimated costs to meet the proposed 4-pound requirement. Over a 25-year analysis period (based on the operational life of a propeller) we estimate the total cost for 635 future propellers to be $458,000 or $213,000 in present value (7 percent discount rate). The FAA considers this cost to be minimal.

The benefits from this higher bird-strike requirement are an expected continuity of over fifty million flight hours with no accidents attributed to bird impacts against composite propellers despite many bird strikes. Between 1990 and 2004, there have been over 150 bird strikes to part 23 propellers (see the FAA National Wildlife Strike Database, Version 6.0, February 26, 2005; available online at *http://wildlife.pr.erau.edu/public/index1.html*).

We, therefore, have determined that this rulemaking action is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures. In addition, the FAA has determined that this rulemaking action: (1) Would not have a significant economic impact on a substantial number of small entities; (2) would be in compliance with the Trade Agreements Act; and (3) would not impose an unfunded mandate on state,

local, or tribal governments, or on the private sector.

Regulatory Flexibility Determination

A. Introduction

The Regulatory Flexibility Act of 1980 (RFA) establishes ''* * * as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a ''significant economic impact on a substantial number of small entities.'' If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The purpose of this Initial Regulatory Flexibility Analysis (IRFA) is to ensure that the agency has considered all reasonable regulatory alternatives that would minimize the proposal's economic burdens for affected small entities, while achieving its safety objectives.

Under Section 603 of the RFA, the analysis must address:

- Description of reasons the agency is considering the action.
- Statement of the legal basis and objectives for the proposal.
- Description of the recordkeeping and other compliance requirements of the proposal.
- All federal rules that may duplicate, overlap, or conflict with the proposal.
- Description and an estimated number of small entities to which the proposal would apply.
- Analysis of small firms' ability to afford the proposal.
- Conduct a competitive analysis.
- Estimation of the potential for business closures.
- Describe the alternatives considered.
- Conduct a disproportionality analysis.

B. Reasons for This Proposal

The FAA proposes to revise the airworthiness standards for the issuance of original and amended type certificates for airplane propellers. The existing propeller requirements do not adequately address the technological advances of the past 20 years. The proposed standards would address the current advances in technology and would harmonize the FAA requirements with the existing requirements of Certification Specifications for Propellers of the EASA. This proposal would establish nearly uniform standards for aircraft propellers certified by the United States under FAA standards and by European countries under EASA standards, thereby simplifying airworthiness approvals for import and export products.

C. Statement of the Legal Basis and Objectives

Under Title 49 of the U. S. Code, the FAA Administrator is required to consider the following matters, among others, as being in the public interest: Assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. (See 49 U.S.C. 40101(d)(1).). Additionally, it is the FAA Administrator's statutory duty to carry out his or her responsibilities ''in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation.'' (See 49 U.S.C. 44701(c).)

Accordingly, this proposal would amend Title 14 of the Code of Federal Regulations to update the propeller certification requirements to reflect technological changes in the last 10 to 20 years, reduce the need for and use of special tests and conditions for propeller certification, and to harmonize U.S. propeller certification requirements with European propeller certification requirements.

D. Projected Reporting, Recordkeeping and Other Requirements

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no current new information collection requirements associated with this proposed rule.

E. Overlapping, Duplicative, or Conflicting Federal Rules

The FAA is unaware that the proposal would overlap, duplicate, or conflict with existing Federal Rules.

F. Estimated Number of Small Firms Potentially Impacted

Under the RFA, the FAA must determine whether or not a proposal significantly affects a substantial number of small entities. This determination is typically based on small entity size and cost thresholds that vary depending on the affected industry. The Small Business Administration (SBA) uses the NAICS (North American Industry Classification System) 2002 to determine size standards for small businesses. There is no entry in the NAICS 2002 for propeller manufacturers. However, the NAICS 2002 does list under Sectors 31–33, Manufacturing, Subsector 336, Transportation Equipment Manufacturing, which in turn lists the following numbers and number of employees as shown in the following table:

NAICS 2002 No.	Description	Number of employees
336411 ..	Aircraft Manufacturing.	1,500
336412 ..	Aircraft Engine and Engine Parts Manufacturing.	1,000
336413 ..	Other Aircraft Part and Auxiliary Equipment Manufacturing.	1,000

Propeller manufacturing could be included in #336412, Aircraft Engine and Aircraft Parts Manufacturing; or #336413, Other Aircraft Parts and Auxiliary Equipment Manufacturing. Both these categories use 1,000 employees to define a small business. Therefore, the FAA defines a small business in the variable pitch propeller manufacturing industry as a business with 1,000 or less employees. In accordance with SBA usage, this number applies to the ultimate ownership of the company.

In 2004, the American airplane variable pitch propeller industry consisted of three firms. These firms were Hamilton Sundstrand, Hartzell, and McCauley. Hamilton Sundstrand is a subsidiary of United Technologies that employed approximately 210,000 people and had annual revenues of approximately $37 billion in 2004.[1]

[1] _, United Technologies Corporation—Our Profile, *http://www.utc.com/profile/profile/index.htm,* 08/26/2005.

McCauley Propeller Systems is owned by Cessna, which, in turn, is owned by Textron, Inc. Textron employed some 44,000 people and had annual revenues of some $10 billion in 2004.[2] Hartzell Propeller, Inc. employed 295 employees in 2003 and had annual revenues between $20 and $50 million in 2002.[3]

Using the above criteria, Hartzell is a small business and Hamilton Sundstrand and McCauley are not small businesses. Because only one company is a small business, this proposal would not affect a substantial number of small entities.

G. Cost and Affordability for Small Entities

The 25 year present value estimate of the costs of the proposal is $213,000 or $18,000 annually. Assuming that this cost is distributed evenly across the three firms in the American propeller industry, this results in a cost of $6,000 per company per year.

Hartzell Propeller does not release its annual financial statements. The reference source ''Reference, USA, 2003,'' uses a model to estimate the annual revenues of privately held firms that do not release their financial statements. Therefore, this source provides a range estimate of firms such as Hartzell. The annual revenue of Hartzell Propellers was estimated to be between $20 and $50 million annually, or an average of $37.5 million, by ''Reference USA, 2003.''

A comparison of the annual costs of the proposal per firm to the annual revenues of a firm provides a rough estimate of the burden the rule causes for a firm. Applying the above technique to the small propeller entity yields the following results:

Company	Annual cost of rule	Annual revenue	Percent of annual revenue
Hartzell	$6,000	$37,500,000	0.016

Given the estimated cost and revenue, the FAA believes that the cost would have only a minor impact on the small firm.

H. Competitive Analysis

As the cost information is at the company level and the propeller firms do not all produce the same kind of propeller, the FAA does not have sufficient information to analyze the competitive impact of this proposal.

I. Disproportionality Analysis

Relative to larger propeller manufacturers, smaller propeller manufacturers are more likely to be disproportionately impacted by this rulemaking because the larger manufacturers have relatively higher fixed costs than the smaller manufacturers. These fixed costs are not impacted by the costs that would be imposed by this proposal. The larger propeller manufacturers are expected to incur costs which are a relatively smaller percentage of their annual revenues than those of smaller propeller manufacturers.

J. Business Closure Analysis

The one small business entity has a relatively low compliance cost per annual revenue ratio. We believe that this minor compliance cost would not cause firms to face a business closure. The FAA does not have sufficient information to provide a more refined estimate of a potential business closure.

K. Analysis of Alternatives

The agency considered three alternatives to the proposal. These were:

1. Exclude small entities.

2. Extend compliance deadline for small entities.

3. Establish lesser technical requirements for small entities.

The FAA concludes that the option to exclude small entities from all the requirements of the proposal is not justified. If small entities were excluded the intended safety improvements would be forfeited.

The FAA also considered options that would lengthen the compliance period for small operators. The FAA believes that the requirement, as proposed, would place a modest burden on small entities with respect to time constraints. Small entities would have sufficient time from the effective date of the rule to complete implementation work. Further time extensions would only provide modest cost savings and leave the system safety at risk.

The FAA considered establishing lesser technical requirements for small entities. However, the FAA believes that this would result in a lower level of safety than would the implementation of the proposal. The FAA believes that the greatest safety benefits would come from a common certification rule for all manufacturers.

The FAA concludes that the current proposal is the preferred alternative because the current proposal provides for a common certification system for all propeller manufacturers.

In conclusion, as only one small entity would be affected there are not a substantial number of small entities. Therefore, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it will accept European standards as the basis for U.S. regulations.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandate Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

[2] *www.textron.com/about/company/index.jsp* (Accessed 08/26/2005).

[3] _, *Reference USA, Version 2003.1*, http://www.referenceusa.com/bd/detail.asp?si=97350308854484&abinumber=402250104&t..., 11/25/02.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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. Therefore, we determined that this proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined that this proposed rule qualifies for the categorical exclusion identified in Chapter 3, paragraph 312d and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Parts 23, 25, 33 and 35

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 23, 25, 33, and 35 of Title 14 Code of Federal Regulations as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Revise § 23.905(d) to read as follows:

§ 23.905 Propellers.

* * * * *

(d) The propeller blade pitch control system must meet the requirements of §§ 35.21, 35.23, 35.42 and 35.43 of this chapter.

* * * * *

3. Revise § 23.907 to read as follows:

§ 23.907 Propeller vibration and fatigue.

Sections 23.907(a), (b), and (c) do not apply to fixed-pitch wood propellers of conventional design.

(a) The applicant must determine the magnitude of the propeller vibration stresses or loads, including any stress peaks and resonant conditions, throughout the operational envelope of the airplane by either:

(1) Measurement of stresses or loads through direct testing or analysis based on direct testing of the propeller on the airplane and engine installation for which approval is sought; or

(2) Comparison of the propeller to similar propellers installed on similar airplane installations for which these measurements have been made.

(b) The applicant must demonstrate by tests, analysis based on tests, or previous experience on similar designs that the propeller does not experience harmful effects of flutter throughout the operational envelope of the airplane.

(c) The applicant must perform an evaluation of the propeller to show that failure due to fatigue will be avoided throughout the operational life of the propeller using the fatigue and structural data obtained in accordance with part 35 and the vibration data obtained from compliance with paragraph (a) of this section. For the purpose of this paragraph, the propeller includes the hub, blades, blade retention component and any other propeller component whose failure due to fatigue could be catastrophic to the airplane. This evaluation must include:

(1) The intended loading spectra including all reasonably foreseeable propeller vibration and cyclic load patterns, identified emergency conditions, allowable overspeeds and overtorques, and the effects of temperatures and humidity expected in service.

(2) The effects of airplane and propeller operating and airworthiness limitations.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

4. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

5. Revise § 25.901(b)(1)(i) to read as follows:

§ 25.901 Installation.

* * * * *

(b) * * *

(1) * * *

(i) The installation instructions provided under §§ 33.5 and 35.3 of this chapter; and

* * * * *

6. Revise § 25.905(c) to read as follows:

§ 25.905 Propellers.

* * * * *

(c) The propeller blade pitch control system must meet the requirements of §§ 35.21, 35.23, 35.42 and 35.43 of this chapter.

* * * * *

7. Revise § 25.907 to read as follows:

§ 25.907 Propeller vibration.

Section 25.907 does not apply to fixed-pitch wood propellers of conventional design.

(a) The applicant must determine the magnitude of the propeller vibration stresses or loads, including any stress peaks and resonant conditions, throughout the operational envelope of the airplane by either:

(1) Measurement of stresses or loads through direct testing or analysis based on direct testing of the propeller on the airplane and engine installation for which approval is sought; or

(2) Comparison of the propeller to similar propellers installed on similar airplane installations for which these measurements have been made.

(b) The applicant must demonstrate by tests, analysis based on tests, or previous experience on similar designs that the propeller does not experience harmful effects of flutter throughout the operational envelope of the airplane.

(c) The applicant must perform an evaluation of the propeller to show that failure due to fatigue will be avoided throughout the operational life of the propeller using the fatigue and structural data obtained in accordance with part 35 and the vibration data obtained from compliance with paragraph (a) of this section. For the purpose of this paragraph, the propeller includes the hub, blades, blade retention component and any other propeller component whose failure due to fatigue could be catastrophic to the airplane. This evaluation must include:

(1) The intended loading spectra including all reasonably foreseeable propeller vibration and cyclic load patterns, identified emergency conditions, allowable overspeeds and overtorques, and the effects of

temperatures and humidity expected in service.

(2) The effects of airplane and propeller operating and airworthiness limitations.

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

8. The authority citation for part 33 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

9. Revise § 33.19(b) to read as follows:

§ 33.19 Durability.

* * * * *

(b) Each component of the propeller blade pitch control system which is a part of the engine type design must meet the requirements of §§ 35.21, 35.23, 35.42 and 35.43 of this chapter.

* * * * *

PART 35—AIRWORTHINESS STANDARDS: PROPELLERS

10. The authority citation for part 35 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

Subpart A—General

11. In § 35.1, add paragraphs (c) and (d) to read as follows:

§ 35.1 Applicability.

* * * * *

(c) An applicant is eligible for a propeller type certificate and changes to those certificates after demonstrating compliance with subparts A, B and C of this part. However, the propeller may not be installed on an airplane unless the applicant has shown compliance with either § 23.907 or § 25.907, as applicable, or compliance is not required for installation on that airplane.

(d) For the purposes of this part, the propeller consists of those components listed in the type design, and the propeller system consists of the propeller plus all the components necessary for its functioning, but not necessarily included in the propeller type design.

12. Add § 35.2 to read as follows:

§ 35.2 Propeller configuration and identification.

(a) The applicant must provide a list of all the components, including references to the relevant drawings and software design data, that define the type design of the propeller to be approved under § 21.31.

(b) The propeller identification must comply with §§ 45.11 and 45.14.

13. Revise § 35.3 to read as follows:

§ 35.3 Instructions for propeller installation and operation.

The applicant must provide instructions that are approved by the Administrator. Those approved instructions must contain:

(a) Instructions for installing the propeller, which:

(1) Include a description of the operational modes of the propeller control system and functional interface of the control system with the airplane and engine systems;

(2) Specify the physical and functional interfaces with the airplane, airplane equipment and engine;

(3) Define the limiting conditions on the interfaces from paragraph (a)(2) of this section;

(4) List the limitations established under § 35.5;

(5) Define the hydraulic fluids approved for use with the propeller, including grade and specification, related operating pressure, and filtration levels; and

(6) State the assumptions made to comply with the requirements of this part.

(b) Instructions for operating the propeller which must specify all procedures necessary for operating the propeller within the limitations of the propeller type design.

14. Revise § 35.5 to read as follows:

§ 35.5 Propeller ratings and operating limitations.

(a) Propeller ratings and operating limitations must:

(1) Be established by the applicant and approved by the Administrator.

(2) Be included directly or by reference in the propeller type certificate data sheet, as specified in § 21.41 of this chapter.

(3) Be based on the operating conditions demonstrated during the tests required by this part as well as any other information the Administrator requires as necessary for the safe operation of the propeller.

(b) Propeller ratings and operating limitations must be established for the following, as applicable:

(1) Power and rotational speed for:

(i) Takeoff.

(ii) Maximum continuous.

(iii) If requested by the applicant, other ratings may also be established.

(2) Overspeed and overtorque limits.

15. Add § 35.7 to read as follows:

§ 35.7 Features and characteristics.

(a) The propeller must not have features or characteristics, revealed by any test or analysis or known to the applicant, that make it unsafe for the uses for which certification is requested.

(b) If a failure occurs during a certification test, the applicant must determine the cause and assess the effect on the airworthiness of the propeller. The applicant must make changes to the design and conduct additional tests that the Administrator finds necessary to establish the airworthiness of the propeller.

Subpart B—Design and Construction

§ 35.11 [Removed]

16. Remove and reserve § 35.11.

§ 35.13 [Removed]

17. Remove and reserve § 35.13.

18. Revise § 35.15 to read as follows:

§ 35.15 Safety analysis.

(a)(1) The applicant must analyze the propeller system to assess the likely consequences of all failures that can reasonably be expected to occur. This analysis will take into account, if applicable:

(i) The propeller system in a typical installation. When the analysis depends on representative components, assumed interfaces, or assumed installed conditions, the assumptions must be stated in the analysis.

(ii) Consequential secondary failures and dormant failures.

(iii) Multiple failures referred to in paragraph (d) of this section, or that result in the hazardous propeller effects defined in paragraph (g)(1) of this section.

(2) The applicant must summarize those failures that could result in major propeller effects or hazardous propeller effects defined in paragraph (g) of this section, and estimate the probability of occurrence of those effects.

(3) The applicant must show that hazardous propeller effects are not predicted to occur at a rate in excess of that defined as extremely remote (probability of 10^{-7} or less per propeller flight hour). Since the estimated probability for individual failures may be insufficiently precise to enable the applicant to assess the total rate for hazardous propeller effects, compliance may be shown by demonstrating that the probability of a hazardous propeller effect arising from an individual failure can be predicted to be not greater than 10^{-8} per propeller flight hour. In dealing with probabilities of this low order of magnitude, absolute proof is not possible and reliance must be placed on engineering judgment and previous experience combined with sound design and test philosophies.

(4) It must be shown that major propeller effects are not predicted to

occur at a rate in excess of that defined as remote (probability of 10^{-5} or less per propeller flight hour).

(b) If significant doubt exists as to the effects of failures or likely combination of failures, the Administrator may require assumptions used in the analysis to be verified by test.

(c) The primary failures of certain single elements (for example, blades) cannot be sensibly estimated in numerical terms. If the failure of such elements is likely to result in hazardous propeller effects, then compliance may be shown by reliance on the prescribed integrity requirements of this part. These instances must be stated in the safety analysis.

(d) If reliance is placed on a safety system to prevent a failure progressing to hazardous propeller effects, the possibility of a safety system failure in combination with a basic propeller failure must be included in the analysis. Such a safety system may include safety devices, instrumentation, early warning devices, maintenance checks, and other similar equipment or procedures. If items of the safety system are outside the control of the propeller manufacturer, the assumptions of the safety analysis with respect to the reliability of these parts must be clearly stated in the analysis and identified in the propeller installation and operation instructions required under § 35.3.

(e) If the safety analysis depends on one or more of the following items, those items must be identified in the analysis and appropriately substantiated.

(1) Maintenance actions being carried out at stated intervals. This includes the verification of the serviceability of items that could fail in a latent manner. When necessary to prevent hazardous propeller effects, these maintenance actions and intervals must be published in the instructions for continued airworthiness required under § 35.4 of this part. Additionally, if errors in maintenance of the propeller system could lead to hazardous propeller effects, the appropriate procedures must be included in the relevant propeller manuals.

(2) Verification of the satisfactory functioning of safety or other devices at pre-flight or other stated periods. The details of this satisfactory functioning must be published in the appropriate manual.

(3) The provisions of specific instrumentation not otherwise required. Such instrumentation must be published in the appropriate documentation.

(4) A fatigue assessment.

(f) If applicable, the safety analysis must include, but not be limited to, assessment of indicating equipment, manual and automatic controls, governors and propeller control systems, synchrophasers, synchronizers, and propeller thrust reversal systems.

(g) Unless otherwise approved by the Administrator and stated in the safety analysis, the following failure definitions apply to compliance with part 35.

(1) The following are regarded as hazardous propeller effects:

(i) A significant overspeed of the propeller.

(ii) The development of excessive drag.

(iii) A significant thrust in the opposite direction to that commanded by the pilot.

(iv) The release of the propeller or any major portion of the propeller.

(v) A failure that results in excessive unbalance.

(vi) The unintended movement of the propeller blades below the established minimum in-flight low-pitch position.

(2) The following are regarded as major propeller effects for variable pitch propellers:

(i) An inability to feather the propeller for feathering propellers.

(ii) An inability to change propeller pitch when commanded.

(iii) A significant uncommanded change in pitch.

(iv) A significant uncontrollable torque or speed fluctuation.

19. Revise § 35.17 to read as follows:

§ 35.17 Materials and manufacturing methods.

(a) The suitability and durability of materials used in the propeller must:

(1) Be established on the basis of experience, tests, or both.

(2) Account for environmental conditions expected in service.

(b) All materials and manufacturing methods must conform to specifications acceptable to the Administrator.

(c) The design values of properties of materials must be suitably related to the most adverse properties stated in the material specification.

20. Revise § 35.21 to read as follows:

§ 35.21 Variable and reversible pitch propellers.

(a) No single failure or malfunction in the propeller system will result in unintended travel of the propeller blades to a position below the in-flight low-pitch position. The extent of any intended travel below the in-flight low-pitch position must be documented by the applicant in the appropriate manuals. Failure of structural elements need not be considered if the occurrence of such a failure is shown to be extremely remote under § 35.15(c).

(b) For propellers incorporating a method to select blade pitch below the in-flight low pitch position, provisions must be made to sense and indicate to the flight crew that the propeller blades are below that position by an amount defined in the installation manual. The method for sensing and indicating the propeller blade must be such that its failure does not affect the control of the propeller.

21. Add § 35.22 to read as follows:

§ 35.22 Feathering propellers.

(a) Feathering propellers must be designed to feather from all conditions in flight, taking into account expected wear and leakage. Feathering and unfeathering limitations must be documented in the appropriate manuals.

(b) Propeller pitch control systems that use engine oil to feather must incorporate a method to allow the propeller to feather if the engine oil system fails.

(c) Feathering propellers must be designed to be capable of unfeathering at the minimum declared outside air temperature after stabilization to a steady-state temperature.

22. Revise § 35.23 to read as follows:

§ 35.23 Propeller control system.

The requirements of this section apply to any system or component that controls, limits or monitors propeller functions.

(a) The propeller control system must be designed, constructed and validated to show that:

(1) The propeller control system, operating in normal and alternative operating modes and in transition between operating modes, performs the functions defined by the applicant throughout the declared operating conditions and flight envelope.

(2) The propeller control system functionality is not adversely affected by the declared environmental conditions, including temperature, electromagnetic interference (EMI), high intensity radiated fields (HIRF) and lightning. The environmental limits to which the system has been satisfactorily validated must be documented in the appropriate propeller manuals.

(3) A method is provided to indicate that an operating mode change has occurred if flight crew action is required. In such an event, operating instructions must be provided in the appropriate manuals.

(b) The propeller control system must be designed and constructed so that, in addition to compliance with § 35.15:

(1) No single failure or malfunction of electrical or electronic components in the control system results in a hazardous propeller effect.

(2) Failures or malfunctions directly affecting the propeller control system in a typical airplane, such as structural failures of attachments to the control, fire, or overheat, do not lead to a hazardous propeller effect.

(3) The loss of normal propeller pitch control does not cause a hazardous propeller effect under the intended operating conditions.

(4) The failure or corruption of data or signals shared across propellers does not cause a hazardous propeller effect.

(c) Electronic propeller control system imbedded software must be designed and implemented by a method approved by the Administrator that is consistent with the criticality of the performed functions and that minimizes the existence of software errors.

(d) The propeller control system must be designed and constructed so that the failure or corruption of airplane-supplied data does not result in hazardous propeller effects.

(e) The propeller control system must be designed and constructed so that the loss, interruption or abnormal characteristic of airplane-supplied electrical power does not result in hazardous propeller effects. The power quality requirements must be described in the appropriate manuals.

23. Add § 35.24 to read as follows:

§ 35.24 Strength.

The maximum stresses developed in the propeller must not exceed values acceptable to the Administrator considering the particular form of construction and the most severe operating conditions. Due consideration must be given to the effects of any residual stresses.

Subpart C—Type Substantiation

§ 35.31 [Removed]

24. Remove and reserve § 35.31.

25. Revise § 35.33 to read as follows:

§ 35.33 General.

(a) Each applicant must furnish test article(s) and suitable testing facilities, including equipment and competent personnel, and conduct the required tests in accordance with part 21.

(b) All automatic controls and safety systems must be in operation unless it is accepted by the Administrator as impossible or not required because of the nature of the test. If needed for substantiation, the applicant may test a different propeller configuration if this does not constitute a less severe test.

(c) Any systems or components that cannot be adequately substantiated by the applicant to the requirements of this part are required to undergo additional tests or analysis to demonstrate that the systems or components are able to perform their intended functions in all declared environmental and operating conditions.

26. Revise § 35.34 to read as follows:

§ 35.34 Inspections, adjustments and repairs.

(a) Before and after conducting the tests prescribed in this part, the test article must be subjected to an inspection, and a record must be made of all the relevant parameters, calibrations and settings.

(b) During all tests, only servicing and minor repairs are permitted. If major repairs or part replacement is required, the Administrator must approve the repair or part replacement prior to implementation and may require additional testing. Any unscheduled repair or action on the test article must be recorded and reported.

27. Revise § 35.35 to read as follows:

§ 35.35 Centrifugal load tests.

The applicant must demonstrate that a propeller complies with paragraphs (a), (b) and (c) of this section without evidence of failure, malfunction, or permanent deformation that would result in a major or hazardous propeller effect. When the propeller could be sensitive to environmental degradation in service, this must be considered. This section does not apply to fixed-pitch wood or fixed-pitch metal propellers of conventional design.

(a) The hub, blade retention system, and counterweights must be tested for a period of one hour to a load equivalent to twice the maximum centrifugal load to which the propeller would be subjected during operation at the maximum rated rotational speed.

(b) Blade features associated with transitions to the retention system (for example, a composite blade bonded to a metallic retention) must be tested either during the test of § 35.35(a) or in a separate component test.

(c) Components used with or attached to the propeller (for example, spinners, de-icing equipment, and blade erosion shields) must be subjected to a load equivalent to 159 percent of the maximum centrifugal load to which the component would be subjected during operation at the maximum rated rotational speed. This must be performed by either:

(1) Testing at the required load for a period of 30 minutes; or

(2) Analysis based on test.

28. Add § 35.36 to read as follows:

§ 35.36 Bird impact.

The applicant must demonstrate, by tests or analysis based on tests or experience on similar designs, that the propeller can withstand the impact of a 4-pound bird at the critical location(s) and critical flight condition(s) of a typical installation without causing a major or hazardous propeller effect. This section does not apply to fixed-pitch wood propellers of conventional design.

29. Revise § 35.37 to read as follows:

§ 35.37 Fatigue limits and evaluation.

This section does not apply to fixed-pitch wood propellers of conventional design.

(a) Fatigue limits must be established by tests, or analysis based on tests, for propeller:

(1) Hubs;

(2) Blades;

(3) Blade retention components;

(4) Components which are affected by fatigue loads and which are shown under § 35.15 to have a fatigue failure mode leading to hazardous propeller effects.

(b) The fatigue limits must take into account:

(1) All known and reasonably foreseeable vibration and cyclic load patterns that are expected in service; and

(2) Expected service deterioration, variations in material properties, manufacturing variations, and environmental effects.

(c) A fatigue evaluation of the propeller must be conducted to show that hazardous propeller effects due to fatigue will be avoided throughout the intended operational life of the propeller on either:

(1) The intended airplane by complying with § 23.907 or § 25.907, as applicable; or

(2) A typical airplane.

30. Add § 35.38 to read as follows:

§ 35.38 Lightning strike.

The applicant must demonstrate, by tests, analysis based on tests, or experience on similar designs, that the propeller can withstand a lightning strike without causing a major or hazardous propeller effect. The limit to which the propeller has been qualified must be documented in the appropriate manuals. This section does not apply to fixed-pitch wood propellers of conventional design.

31. Revise § 35.39 to read as follows:

§ 35.39 Endurance test.

Endurance tests on the propeller system must be made on a

representative engine in accordance with paragraph (a) or (b) of this section, as applicable, without evidence of failure or malfunction.

(a) Fixed-pitch and ground adjustable-pitch propellers must be subjected to one of the following tests:

(1) A 50-hour flight test in level flight or in climb. The propeller must be operated at takeoff power and rated rotational speed during at least five hours of this flight test, and at not less than 90 percent of the rated rotational speed for the remainder of the 50 hours.

(2) A 50-hour ground test at takeoff power and rated rotational speed.

(b) Variable-pitch propellers must be subjected to one of the following tests:

(1) A 110-hour endurance test that must include the following conditions:

(i) Five hours at takeoff power and rotational speed and thirty 10-minute cycles composed of:

(A) Acceleration from idle,

(B) Five minutes at takeoff power and rotational speed,

(C) Deceleration, and

(D) Five minutes at idle.

(ii) Fifty hours at maximum continuous power and rotational speed,

(iii) Fifty hours, consisting of ten 5-hour cycles composed of:

(A) Five accelerations and decelerations between idle, takeoff power and rotational speed;

(B) Four and one-half hours at approximately even incremental conditions from idle up to, but not including, maximum continuous power and rotational speed; and

(C) Thirty minutes at idle.

(2) The operation of the propeller throughout the engine endurance tests prescribed in part 33 of this chapter.

(c) An analysis based on tests of propellers of similar design may be used in place of the tests of § 35.39(a) and (b).

32. Add § 35.40 to read as follows:

§ 35.40 Functional test.

The variable-pitch propeller system must be subjected to the applicable functional tests of this section. The same propeller system used in the endurance test (§ 35.39) must be used in the functional tests and must be driven by a representative engine on a test stand or on an airplane. The propeller must complete these tests without evidence of failure or malfunction. This test may be combined with the endurance test for accumulation of cycles.

(a) *Manually-controllable propellers.* Five hundred representative flight cycles must be made across the range of pitch and rotational speed.

(b) *Governing propellers.* Fifteen hundred complete cycles must be made across the range of pitch and rotational speed.

(c) *Feathering propellers.* Fifty cycles of feather and unfeather operation must be made.

(d) *Reversible-pitch propellers.* Two hundred complete cycles of control must be made from lowest normal pitch to maximum reverse pitch. During each cycle, the propeller must be run for 30 seconds at the maximum power and rotational speed selected by the applicant for maximum reverse pitch.

(e) An analysis based on tests of propellers of similar design may be used in place of the tests of § 35.40.

33. Revise §§ 35.41, 35.42, and 35.43 to read as follows:

§ 35.41 Overspeed and overtorque.

(a) When the applicant seeks approval of a transient maximum propeller overspeed, the applicant must demonstrate that the propeller is capable of further operation without maintenance action at the maximum propeller overspeed condition. This may be accomplished by:

(1) Performance of 20 runs, each of 30 seconds duration, at the maximum propeller overspeed condition; or

(2) Analysis based on test or service experience.

(b) When the applicant seeks approval of a transient maximum propeller overtorque, the applicant must demonstrate that the propeller is capable of further operation without maintenance action at the maximum propeller overtorque condition. This may be accomplished by:

(1) Performance of 20 runs, each of 30 seconds duration, at the maximum propeller overtorque condition; or

(2) Analysis based on test or service experience.

§ 35.42 Components of the propeller control system.

The applicant must demonstrate by tests, analysis based on tests, or service experience on similar components, that each propeller blade pitch control system component, including governors, pitch change assemblies, pitch locks, mechanical stops, and feathering system components, can withstand cyclic operation that simulates the normal load and pitch change travel to which the component would be subjected during the initially declared overhaul period or during a minimum of 1000 hours of typical operation in service.

§ 35.43 Propeller hydraulic components.

Applicants must show that propeller components that contain hydraulic pressure and whose structural failure or leakage from a structural failure could cause a hazardous propeller effect demonstrate structural integrity by:

(a) A proof pressure test to 1.5 times the maximum operating pressure for one minute without permanent deformation or leakage that would prevent performance of the intended function.

(b) A burst pressure test to 2.0 times the maximum operating pressure for one minute without failure. Leakage is permitted and seals may be excluded from the test.

§ 35.45 [Removed]

34. Remove and reserve § 35.45.

§ 35.47 [Removed]

35. Remove and reserve § 35.47.

Issued in Washington, DC, on March 26, 2007.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. E7–6193 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA–2007–27311; Notice No. 07–03]

RIN 2120–AI94

Airworthiness Standards; Engine Control System Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) is proposing to revise type certification standards for aircraft engine control systems. These proposed changes reflect current practices and harmonize FAA standards with those recently adopted by the European Aviation Safety Agency (EASA). These proposed changes would establish uniform standards for all engine control systems for aircraft engines certificated by both U.S. and European countries and would simplify airworthiness approvals for import and export.

DATES: Send your comments on or before July 10, 2007.

ADDRESSES: You may send comments identified by Docket Number [FAA–2007–27311] using any of the following methods:

• *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

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

• *Fax:* 1–202–493–2251.

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

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Horan, Engine and Propeller Directorate Standards Staff, ANE–111, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7164, fax (781) 238–7199, e-mail *gary.horan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing 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.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

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

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

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

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

Background

U.S. and European aircraft engine regulations differ in several areas including engine controls. Harmonization of these differences benefits industry and regulators because of the lower costs associated with one set of engine control regulations.

The FAA, in cooperation with the Joint Aviation Authorities (JAA), the European rulemaking authority before EASA, established an international engine certification study group to compare part 33 with the Joint Aviation Requirements—Engines (JAR–E), the European requirements for engines. As a follow-on, the Aviation Rulemaking Advisory Committee, through its Engine Harmonization Working Group (EHWG), looked at harmonizing the engine control requirements of part 33 and the JAR–E.

In response to EHWG recommendations, the JAA published a Notice of Proposed Amendment (NPA), NPA–E–33 Rev 0, on April 20, 2001. JAA's proposed amendment contained rules and advisory material almost identical to FAA's proposed part 33 changes. Some commenters to this NPA objected that the reliability of aircraft-supplied electrical power should be considered when determining the required degree of protection against failure. Because of these comments, the JAA updated its rulemaking in NPA–E–33 Rev 1. The FAA and the JAA subsequently agreed that the reliability and quality of aircraft-supplied power should be a factor in considering the approval of the engine design. This NPRM reflects this agreement between FAA and the JAA. EASA has adopted this agreement as CS–E (Certification Specifications for Engines) 50(h).

Section-by-Section Discussion of the Proposals

Section 33.5

We propose adding new paragraphs (a)(4), (a)(5), (a)(6) and (b)(4) to § 33.5 to require applicants to include additional installation information in their instructions for installation. The requirements in proposed paragraphs (a)(4), (a)(5) and (b)(4) are currently prescribed under § 33.28(a) as part of the control system description. This proposal places these requirements in sections consistent with their intended purpose.

Our proposed § 33.5(a)(6) would require that installation instructions list the instruments necessary for satisfactory control of the engine. It would also require that the limits of accuracy and transient response required for satisfactory engine operation be identified so that the suitability of the instruments as installed can be assessed. Part 33 does not require similar installation information. We would harmonize §§ 33.5(a)(4), (a)(5) and (b)(4) with CS–E 20(d), CS–E 30(b), and CS–E 20(d), respectively. Adding § 33.5(a)(6) would harmonize with CS–E 60(b).

Section 33.7

We propose adding a new paragraph (d) to this section. This paragraph

would require that the overall limits of accuracy of the engine control system and the necessary instruments, as defined in § 33.5(a)(6), be considered when determining engine performance and operating limitations. Paragraph (d) would harmonize with CS–E 40(g).

Section 33.27

We propose a new § 33.27(b) that prescribes requirements for methods, other than engine control methods, for protecting rotor structural integrity during overspeed conditions. These methods would include protection methods, such as blade shedding, currently regulated under the CS–E but not identified under part 33.

Section 33.28

We propose changing the title of § 33.28 and the content of its paragraphs. The title would be changed from ''Electrical and electronic engine control systems'' to ''Engine control systems.'' Currently, § 33.28 applies only to electrical and electronic engine control systems, while CS–E 50 and associated requirements apply to all types of engine control systems, including hydromechanical and reciprocating engine controls. The new title reflects the proposed revisions to the section which, to harmonize with EASA specifications, would change the scope of the proposed rule to include all types of engine control systems and devices under § 33.28.

Section 33.28(a)

Our proposed § 33.28(a) would be titled ''Applicability'' and would clarify the systems or devices that are subject to § 33.28 requirements.

Section 33.28(b)

We propose replacing existing § 33.28(b) with new § 33.28(b), ''Validation,'' which prescribes requirements for engine control system validation. The new § 33.28(b) consists of new paragraphs (b)(1) and (b)(2).

Our proposed § 33.28(b)(1) requires that applicants demonstrate that their engine control system performs its intended function in the declared operating conditions, including environmental conditions and flight envelope. Part 33 generally requires this showing, but does so nonspecifically. This new specific requirement will clarify the regulation.

The proposed § 33.28(b)(1) requires that the engine control system comply with §§ 33.51, 33.65, and 33.73, as appropriate, under all likely system inputs and allowable engine power or thrust demands. It also requires that the engine control system allow engine power and thrust modulation with adequate sensitivity over the declared range of engine operating conditions. The engine control system also must not create unacceptable power or thrust oscillations.

Proposed § 33.28(b)(1) would harmonize the sections in part 33 that address engine performance and operability requirements with similar requirements in CS–E 50.

Our proposed § 33.28(b)(2) revises requirements located in the existing § 33.28(d). Proposed § 33.28(b)(2) would clarify environmental testing requirements, including those for High Intensity Radiated Fields (HIRF), lightning, and electromagnetic interference (EMI) for the engine control system.

The environmental testing requirements that are part of the proposed § 33.28(b) set the installation limitations. Those limitations are incorporated into the instructions in accordance with § 33.5(b)(4).

Section 33.28(c)

We propose to revise § 33.28(c) to clarify the requirements for control transitions when fault accommodation is implemented through alternate modes, channel changes, or changes from primary to back-up systems. Proposed § 33.28(c), titled ''Control transitions,'' will clarify the need for crew notification if crew action is required as part of fault accommodation.

Section 33.28(d)

Our proposed § 33.28(d) would consist of revised control system failure requirements formerly located in § 33.28(c). Proposed § 33.28(d), titled ''Engine control system failures,'' would consist of four paragraphs: § 33.28(d)(1) would address integrity requirements, such as Loss of Thrust Control (LOTC) requirements consistent with the intended application; § 33.28(d)(2) would require accommodation of single failures with respect to LOTC/LOPC (Loss of Power Control) events; § 33.28(d)(3) would clarify requirements for single failures of electrical or electronic components; and § 33.28(d)(4) would add requirements for foreseeable failures or malfunctions in the intended aircraft installation such as fire and overheat (*i.e.*, local events).

We considered using the phrase ''essentially single fault tolerant'' in proposed paragraph (d)(2) as the standard for measuring the compliance of an applicant's engine control system. We have had extensive discussions with industry about the meaning of ''essentially single fault tolerant.'' However, in reviewing the meaning of ''essentially,'' we decided that this term introduces sufficient ambiguity so that the phrase could not serve as the basis for an enforceable standard. We chose, therefore, to remove ''essentially'' and to reserve to the Administrator the right to define what is meant by ''single fault tolerant.'' We are preparing an advisory circular to offer guidance regarding what we mean by ''single fault tolerant'' as used in the regulation.

Section 33.28(e)

Our proposed § 33.28(e), titled ''System safety assessment,'' would require a System Safety Assessment (SSA) for the engine control system. The SSA would identify faults or failures that would have harmful effects on the engine. Proposed § 33.28(e) harmonizes with CS–E 50(d).

Section 33.28(f)

Our proposed § 33.28(f), titled ''Protection systems,'' requires protective functions that preserve rotor integrity. Proposed § 33.28(f)(1) would include the protection requirements of the existing § 33.27(b). Proposed § 33.28(f)(2) adds requirements for testing the protection function for availability. Proposed § 33.28(f)(3) establishes requirements for overspeed protection systems implemented through hydromechanical or mechanical means. Proposed § 33.28(f) harmonizes with CS–E 50(e).

Section 33.28(g)

Our proposed § 32.28(g), titled ''Software,'' would consist of the software requirements for the engine control system currently prescribed under § 33.28(e). We are proposing to revise § 33.28(g) to require that software be consistent with the criticality of performed functions. Proposed § 33.28(g) harmonizes with CS–E 50(f).

Section 33.28(h)

Our proposed § 33.28(h), titled ''Aircraft-supplied data,'' clarifies requirements related to failure of aircraft-supplied data. The revision consists of two new paragraphs that prescribe requirements for single failures leading to loss, interruption, or corruption of aircraft-supplied data or data shared between engines. We propose to modify the current FAA requirement for fault accommodation for loss of all aircraft-supplied data to require detection and accommodation for single failures leading to loss, interruption, or corruption of aircraft-supplied data. This accommodation must not result in an unacceptable change in thrust or power or an unacceptable change in engine

operating and starting characteristics. Proposed § 33.28(h) harmonizes with CS–E 50(g).

Section 33.28(i)

Our proposed § 33.28(i), titled ''Aircraft-supplied electrical power,'' clarifies requirements for the response of the engine control system to loss or interruption of electrical power supplied from the aircraft. Proposed § 33.28(i) would apply to all electrical power supplied to the engine control system, including that supplied from the aircraft power system and from the dedicated power source, if required.

We propose to add requirements to § 33.28(i) that represent current industry standard practices but are not in part 33. These include a requirement that the applicant define in the instructions for installation:

1. The power characteristics of any power supplied from the aircraft to the engine control system; and

2. The engine control and engine responses to low voltage transients outside the declared power supply voltage limitations.

This action proposes an additional requirement for a dedicated power source for the control system to provide sufficient capacity to power the functions provided by the control system below idle, such as for the auto-relight function.

With the change in scope of this proposal from electronic engine controls to engine controls, it is not our intent that all electrically powered engine functions be under the § 33.28(i) requirement for a dedicated power source. The loss of some control functions traditionally dependent on aircraft-supplied power continues to be acceptable. The use of conventional aircraft-supplied power for these traditional functions has been acceptable as they, in general, do not affect the safe operation of the engine. Examples include:

- Functions without safety significance that are primarily performance enhancement functions
- Engine start and ignition
- Thrust reverser deployment
- Anti-icing (engine probe heat)
- Fuel shut-off

Our proposed § 33.28(i) harmonizes with CS–E 50(h).

Section 33.28(j)

We propose adding a new § 33.28(j), titled ''Air pressure signal,'' that would add safety requirements for air pressure signals in the engine control system. It will require that applicants take design precautions to minimize system malfunction from ingress of foreign matter or blockage of the signal lines by foreign matter or ice. Our proposed § 33.28(j) harmonizes with CS–E 50(i).

Section 33.28(k)

Our proposed § 33.28(k), ''Automatic availability and control of engine power for 30-second OEI rating,'' prescribes requirements for engines with One-Engine-Inoperative (OEI) capability. This proposal, formerly located in § 33.67(d), prescribes a control function that more properly is located in the ''Engine control systems'' section. We propose moving the contents of § 33.67(d) to 33.28(k). Our proposed § 33.28(k) harmonizes with CS–E 50(j).

Section 33.28(l)

Our proposed § 33.28(l), titled ''Engine shutdown means,'' requires that the engine control system provide a rapid means of shutting down the engine. Proposed § 33.28(l) harmonizes with CS–E 50(k).

Section 33.28(m)

Our proposed § 33.28(m), titled ''Programmable logic devices,'' adds safety requirements for programmable logic devices (PLD) that include Application-Specific Integrated Circuits and programmable gate arrays. We decided to propose new PLD requirements separate from software requirements, although the requirements are similar, because PLD's combine software and complex hardware. The proposed rule would require that development of the devices and associated encoded logic used in their design and implementation be at a level equal to the hazard level of the functions performed via the devices. Proposed § 33.28(m) harmonizes with CS–E 50(f).

Section 33.29

We propose revising § 33.29 by adding new paragraphs (e) through (h) to harmonize with CS–E 60, Provision for Instruments.

The new § 33.29(e) would require that applicants provide instrumentation necessary to ensure engine operation in compliance with the engine operating limitations. When instrumentation is necessary for compliance with the engine requirements, applicants must specify the instrumentation in the instructions for installation and include the instrumentation as part of the engine type design. The proposed § 33.29(e) harmonizes with CS–E 60(a).

The existing § 33.29(a) requirement addresses the prevention of incorrect connections of instruments only. Proposed § 33.29(f) would require that applicants provide a means to minimize the possibility of incorrect fitting of instruments, sensors and connectors. Proposed § 33.29(f) harmonizes with CS–E 110(e).

Currently, part 33 does not address requirements for sensors and associated wiring and signal conditioning segregation. Proposed § 33.29(g) would reduce the probability of faults propagating from the instrumentation and monitoring functions to the control functions, or vice versa, by prescribing that the probability of propagation of faults be consistent with the criticality of the function performed. Proposed § 33.29(g) harmonizes with CS–E 60(c).

Our proposed § 33.29(h) would add new requirements for instrumentation that enables the flight crew to monitor the functioning of the turbine case cooling system. Proposed § 33.29(h) harmonizes with CS–E 60(e).

Section 33.53

We propose revising the title of § 33.53 from ''Engine component tests,'' to ''Engine system and component tests.'' The revised title would better identify reciprocating engine control system tests that may be conducted under this paragraph. Proposed § 33.53(a) provides for systems tests if required.

Section 33.91

We propose changing the title of § 33.91 from ''Engine component tests'' to ''Engine system and component tests.'' The revised title would better identify engine control system tests, for example, system validation testing, that may be required under this paragraph. Our proposed § 33.91(a) would provide for systems tests if required.

Rulemaking Analyses and Notices

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, including minimum safety standards for aircraft engines. This proposed rule is within the scope of that authority because it

updates existing regulations for aircraft engine control systems.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We determined that this proposed rule does not impose any new information collection requirements.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, we comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. We determined that ICAO has no Standards or Recommended Practices that correspond to these proposed regulations.

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect, and the basis for it, be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows.

The proposed rule reflects current practices and harmonizes FAA airworthiness standards for aircraft engine control systems with similar requirements recently adopted by EASA. These proposed changes to engine control system requirements would establish uniform standards for all engine control systems for aircraft engines certificated by both U.S. and European countries and would simplify airworthiness approvals for import and export. Similar international requirements would reduce duplicative testing which would reduce certification costs.

An engine control system is any system or device that controls, limits, or monitors engine operation and is necessary for the continued airworthiness of the engine. This implies consideration of all control system components including the electronic control unit(s), fuel metering unit(s), variable-geometry actuators, cables, wires, and sensors.

An engine control system may be composed of several subsystems which can include: (1) Fuel control, (2) spark control, (3) turbocharger wastegate control, (4) throttle control, and (5) propeller governor. A turbine FADEC (Full Authority Digital Engine Control) system typically controls the fuel, the variable pitch vanes, the engine operability bleeds, the temperature management system and, most recently, the ignition and other starting elements. A reciprocating engine could be considered to have a FADEC system if any of the subsystems are controlled electronically over their full range of operation.

The proposed regulation covers the main engine control system as well as the protection systems, for example, overspeed, over-torque, or over-temperature. Engine monitoring systems are covered by this proposed regulation when they are physically or functionally integrated with the control system and they perform functions that affect engine safety or are used to effect continued-operation or return-to-service decisions.

The purpose of § 33.28 is to set objectives for the general design and functioning of the engine control system. These requirements are not intended to replace or supersede other requirements, such as § 33.67 for the fuel system. Therefore, individual components of the control system, such as alternators, sensors, actuators, should be covered, in addition, under other part 33 paragraphs such as § 33.53 and § 33.91 as appropriate.

Although the proposed rule would cover all types of engine control systems (including hydromechanical and reciprocating engine controls), it would not cover one particular simple electro-mechanical device—the conventional magneto—because that device is not a true control component. On the other hand, the proposed rule would cover subsystems controlled by a FADEC because this is considered part of the engine control system. FADECs are standard on virtually all new turbine engines, and are now being put on some new reciprocating engines also.

This proposal would lower costs by establishing uniform certification standards for all engine control systems certified in the United States under part 33 and in European countries under EASA regulations, simplifying airworthiness approvals for import and export. In addition, a potential for increased safety lies in having more clear and explicit regulations, but the FAA was unable to quantify this benefit. The FAA concludes that the benefits of this rule justify the costs. The FAA requests comments with supporting justification about the FAA determination of minimal impact.

The FAA has, therefore, determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a

substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities because only one U.S. engine manufacturer meets the definition of small business contained in the Small Business Administration's small business size standard regulations. Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and determined that it uses European standards as the basis for U.S. regulations.

Unfunded Mandates Assessment

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

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. We determined that this proposed rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312d and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 33

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of Title 14, Code of Federal Regulations, as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

1. The authority citation for part 33 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Amend § 33.5 by adding new paragraphs (a)(4), (a)(5), (a)(6), and (b)(4), to read as follows:

§ 33.5 Instruction manual for installing and operating the engine.

* * * * *

(a) * * *

(4) A definition of the physical and functional interfaces with the aircraft and aircraft equipment, including the propeller when applicable.

(5) Where an engine system relies on components that are not part of the engine type design, the interface conditions and reliability requirements for those components upon which engine type certification is based must be specified in the engine installation instructions directly or by reference to appropriate documentation.

(6) A list of the instruments necessary for control of the engine, including the overall limits of accuracy and transient response required of such instruments for control of the operation of the engine, must also be stated so that the suitability of the instruments as installed may be assessed.

(b) * * *

(4) A description of the primary and all alternate modes, and any back-up system, together with any associated limitations, of the engine control system and its interface with the aircraft systems, including the propeller when applicable.

3. Amend § 33.7 by adding new paragraph (d) to read as follows:

§ 33.7 Engine ratings and operating limitations.

* * * * *

(d) In determining the engine performance and operating limitations, the overall limits of accuracy of the engine control system and of the necessary instrumentation as defined in § 33.5(a)(6) must be taken into account.

4. Amend § 33.27 by revising paragraph (b) to read as follows:

§ 33.27 Turbine, compressor, fan, and turbosupercharger rotors.

* * * * *

(b) The design and functioning of engine systems, instruments, and other methods, not covered under § 33.28 of this part must give reasonable assurance that those engine operating limitations that affect turbine, compressor, fan, and turbosupercharger rotor structural integrity will not be exceeded in service.

* * * * *

5. Revise § 33.28 to read as follows:

§ 33.28 Engine control systems.

(a) *Applicability.* These requirements are applicable to any system or device that is part of engine type design, that controls, limits, or monitors engine operation, and is necessary for the continued airworthiness of the engine.

(b) *Validation.* (1) *Functional aspects.* The applicant must substantiate by tests, analysis, or a combination thereof, that the engine control system performs the intended functions in a manner which:

(i) Enables selected values of relevant control parameters to be maintained and the engine kept within the approved operating limits over changing atmospheric conditions in the declared flight envelope;

(ii) Complies with the operability requirements of §§ 33.51, 33.65 and 33.73, as appropriate, under all likely system inputs and allowable engine power or thrust demands, unless it can be demonstrated that this is not required for non-dispatchable specific control modes in the intended application, in which case the engine would be approved;

(iii) Allows modulation of engine power or thrust with adequate sensitivity over the declared range of engine operating conditions; and

(iv) Does not create unacceptable power or thrust oscillations.

(2) *Environmental limits.* The applicant must demonstrate, when complying with §§ 33.53 or 33.91, that the engine control system functionality will not be adversely affected by declared environmental conditions, including electromagnetic interference (EMI), High Intensity Radiated Fields (HIRF), and lightning. The limits to which the system has been qualified must be documented in the engine installation instructions.

(c) *Control transitions.* (1) The applicant must demonstrate that, when fault or failure results in a change from one control mode to another, from one channel to another, or from the primary system to the back-up system, the change occurs so that:

(i) The engine does not exceed any of its operating limitations;

(ii) The engine does not surge, stall, or experience unacceptable thrust or power changes or oscillations or other unacceptable characteristics; and

(iii) There is a means to alert the flight crew if the crew is required to initiate, respond to, or be aware of the control mode change. The means to alert the crew must be described in the engine installation instructions, and the crew action must be described in the engine operating instructions;

(2) The magnitude of any change in thrust or power and the associated transition time must be identified and described in the engine installation instructions and the engine operating instructions.

(d) *Engine control system failures.* The applicant must design and construct the engine control system so that:

(1) The rate for Loss of Thrust (or Power) Control (LOTC/LOPC) events, consistent with the safety objective associated with the intended application can be achieved;

(2) In the full-up configuration, the system is single fault tolerant, as determined by the Administrator, for electrical or electronic failures with respect to LOTC/LOPC events,

(3) Single failures of engine control system components do not result in a hazardous engine effect, and

(4) Foreseeable failures or malfunctions leading to local events in the intended aircraft installation, such as fire, overheat, or failures leading to damage to engine control system components, do not result in a hazardous engine effect due to engine control system failures or malfunctions.

(e) *System safety assessment.* When complying with §§ 33.28 and 33.75, the applicant must complete a System Safety Assessment for the engine control system. This assessment must identify faults or failures that result in a change in thrust or power, transmission of erroneous data, or an effect on engine operability together with the predicted frequency of occurrence of these faults or failures.

(f) *Protection systems.* (1) The design and functioning of engine control devices and systems, together with engine instruments and operating and maintenance instructions, must provide reasonable assurance that those engine operating limitations that affect turbine, compressor, fan, and turbosupercharger rotor structural integrity will not be exceeded in service.

(2) When electronic overspeed protection systems are provided, the design must include a means for testing, at least once per engine start/stop cycle, to establish the availability of the protection function. The means must be such that a complete test of the system can be achieved in the minimum number of cycles. If the test is not fully automatic, the requirement for a manual test must be contained in the engine instructions for operation.

(3) When overspeed protection is provided through hydromechanical or mechanical means, the applicant must demonstrate by test or other acceptable means that the overspeed function remains available between inspection and maintenance periods.

(g) *Software.* The applicant must design, implement, and verify all associated software to minimize the existence of errors by using a method, approved by the FAA, consistent with the criticality of the performed functions.

(h) *Aircraft-supplied data.* Single failures leading to loss, interruption or corruption of aircraft-supplied data (other than thrust or power command signals from the aircraft), or data shared between engines must:

(1) Not result in a hazardous engine effect for any engine; and

(2) Be detected and accommodated. The accommodation strategy must not result in an unacceptable change in thrust or power or an unacceptable change in engine operating and starting characteristics. The applicant must evaluate and document the effects of these failures on engine power or thrust, engine operability, and starting characteristics throughout the flight envelope.

(i) *Aircraft-supplied electrical power.* (1) The applicant must design the engine control system so that the loss, malfunction, or interruption of electrical power supplied from the aircraft to the engine control system will not result in any of the following:

(i) A hazardous engine effect, or

(ii) The unacceptable transmission of erroneous data.

(2) When an engine dedicated power source is required for compliance with § 33.28(i)(1), its capacity should provide sufficient margin to account for engine operation below idle where the engine control system is designed and expected to recover engine operation automatically.

(3) The applicant must identify and declare the need for, and the characteristics of, any electrical power supplied from the aircraft to the engine control system for starting and operating the engine, including transient and steady state voltage limits, in the engine instructions for installation.

(4) Low voltage transients outside the power supply voltage limitations declared in § 33.28(i)(3) must meet the requirements of § 33.28(i)(1). The engine control system must be capable of resuming normal operation when aircraft-supplied power returns to within the declared limits.

(j) *Air pressure signal.* The applicant must consider the effects of blockage or leakage of the signal lines on the engine control system as part of the system safety assessment of § 33.28(e) and must adopt the appropriate design precautions.

(k) *Automatic availability and control of engine power for 30-second OEI rating.* Rotorcraft engines having a 30-second OEI rating must incorporate a means, or a provision for a means, for automatic availability and automatic control of the 30-second OEI power within its operating limitations.

(l) *Engine shut down means.* Means must be provided for shutting down the engine rapidly.

(m) *Programmable logic devices.* The development of programmable logic

devices using digital logic or other complex design technologies must provide a level of assurance for the encoded logic commensurate with the hazard associated with the failure or malfunction of the systems in which the devices are located. The applicant must design, implement, and verify all associated logic to minimize the existence of errors by using a method, approved by the FAA, that is consistent with the criticality of the performed function.

6. Amend § 33.29 by adding new paragraphs (e) through (h) to read as follows:

§ 33.29 Instrument connection.

* * * * *

(e) The applicant must make provision for the installation of instrumentation necessary to ensure operation in compliance with engine operating limitations. Where, in presenting the safety analysis, or complying with any other requirement, dependence is placed on instrumentation that is not otherwise mandatory in the assumed aircraft installation, then the applicant must specify this instrumentation in the engine installation instructions and declare it mandatory in the engine approval documentation.

(f) As part of the System Safety Assessment of § 33.28(e), the applicant must assess the possibility and subsequent effect of incorrect fit of instruments, sensors, or connectors. Where necessary, the applicant must take design precautions to prevent incorrect configuration of the system.

(g) The sensors, together with associated wiring and signal conditioning, must be segregated, electrically and physically, to the extent necessary to ensure that the probability of a fault propagating from instrumentation and monitoring functions to control functions, or vice versa, is consistent with the failure effect of the fault.

(h) The applicant must provide instrumentation enabling the flight crew to monitor the functioning of the turbine cooling system unless appropriate inspections are published in the relevant manuals and evidence shows that:

(1) Other existing instrumentation provides adequate warning of failure or impending failure;

(2) Failure of the cooling system would not lead to hazardous engine effects before detection; or

(3) The probability of failure of the cooling system is extremely remote.

7. Amend § 33.53 by revising the section heading and paragraph (a) to read as follows:

§ 33.53 Engine system and component tests.

(a) For those systems and components that cannot be adequately substantiated in accordance with endurance testing of § 33.49, the applicant must conduct additional tests to demonstrate that systems or components are able to perform the intended functions in all declared environmental and operating conditions.

* * * * *

§ 33.67 [Amended]

8. Remove paragraph (d) from § 33.67.

9. Amend § 33.91 by revising the section heading and paragraph (a) to read as follows:

§ 33.91 Engine system and component tests.

(a) For those systems or components that cannot be adequately substantiated in accordance with endurance testing of § 33.87, the applicant must conduct additional tests to demonstrate that the systems or components are able to perform the intended functions in all declared environmental and operating conditions.

* * * * *

Issued in Washington, DC, on March 26, 2007.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. E7–6535 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27532; Directorate Identifier 2007–CE–021–AD]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. P–180 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

> One P–180 aircraft experienced a jamming of its longitudinal flight control cables. Investigations revealed that its fuselage drain holes were plugged, and water was trapped in the lower fuselage.
>
> As a consequence of plugged drain holes, water can accumulate and freeze when the aircraft reaches and holds altitudes where temperature is below the freezing point. If not corrected this may cause the loss of control of the airplane.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by May 11, 2007.

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

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI

safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–27532; Directorate Identifier 2007–CE–021–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2007–0031, dated February 9, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products.

One P–180 aircraft experienced a jamming of its longitudinal flight control cables. Investigations revealed that its fuselage drain holes were plugged, and water was trapped in the lower fuselage.

As a consequence of plugged drain holes, water can accumulate and freeze when the aircraft reaches and holds altitudes where temperature is below the freezing point. If not corrected this may cause the loss of control of the airplane.

The MCAI requires:

* * * Check for proper operation, fuselage drain holes and the passenger evaporator drain line and to introduce a temporary revision of the Aircraft Maintenance Manual.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Piaggio Aero Industries S.p.A. has issued Mandatory Service Bulletin SB–80–0220, dated August 8, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 60 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $24,000, or $400 per product.

In addition, we estimate that any necessary follow-on actions would take about 13 work-hours and require parts costing $125 for a cost of $1,165 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Piaggio Aero Industries S.P.A.: Docket No. FAA–2007–27532; Directorate Identifier 2007–CE–021–AD.

Comments Due Date

(a) We must receive comments by May 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to P–180 airplanes, serial numbers 1004 through 1112, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 53: Fuselage.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

One P 180 aircraft experienced a jamming of its longitudinal flight control cables. Investigations revealed that its fuselage drain holes were plugged, and water was trapped in the lower fuselage.

As a consequence of plugged drain holes, water can accumulate and freeze when the aircraft reaches and holds altitudes where temperature is below the freezing point. If not corrected this may cause the loss of control of the airplane.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) At the next scheduled maintenance inspection or 1 month after the effective date of the AD, whichever occurs later, and repetitively thereafter at intervals not to exceed every 12 months, inspect fuselage drain holes and the passenger evaporator drain line for proper operation and do all the necessary corrective actions, following the accomplishment instructions of the Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006.

Note 1: We have established the repetitive inspection times of this AD so that they may coincide with annual inspections.

Note 2: We encourage you to update your maintenance program by inserting the Temporary Revision of the Piaggio P 180 Avanti Maintenance Manual (AMM) attached to the Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: We have added repetitive inspection requirements in the AD to coincide with the Piaggio P 180 Avanti Maintenance Manual temporary revision referenced in the Piaggio Aero Industries S.p.A. Mandatory Service Bulletin SB–80–0220, dated August 8, 2006.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et.seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA AD No. 2007–0031, dated February 9, 2007; and Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006, for related information.

Issued in Kansas City, Missouri, on April 4, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–6721 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 232

[DOD–2006–OS–0216]

RIN 0790–AI20

Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

AGENCY: Department of Defense (DoD).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The Department of Defense (the Department or DoD) proposes to amend our regulations by adding a new part to implement the consumer protections covered by Public Law 109–364, the John Warner National Defense Authorization Act for Fiscal Year 2007, section 670, ''Limitations on Terms of Consumer Credit Extended to Service Members and Dependents'' (October 17, 2006). Section 670 of Public Law 109–364 created 10 U.S.C. 987 and requires the Secretary of Defense to prescribe regulations to carry out the new section. The proposed regulation is intended to regulate the terms of consumer credit extended by creditors to active duty service members and their dependents.

DATES: Comments must be received no later than June 11, 2007.

ADDRESSES: You may submit comments, identified by docket number and or Regulatory Information Number (RIN) and title, by any of the following methods:

—*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

—*Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. George Schaefer, (703) 588–0876.

SUPPLEMENTARY INFORMATION:

I. Background

Today's joint force combat operations require highly trained, experienced and motivated troops. We are fortunate that the All Volunteer Force of today is comprised of individuals who fit the stringent requirements needed for success on the battlefield. The military has seen a lot of changes since it became an All Volunteer Force in 1973. The technological advances over the ensuing 34 years have made remarkable transformations to the capabilities of the Armed Forces.

These advances would not have been as easily attained if it were not for the All Volunteer Force. The members of this force have higher levels of aptitude, stay in the military longer, and as a consequence, perform better than their conscript predecessors. During the Vietnam era draft, 90 percent of

conscripts quit after their initial two-year hitch, whereas retention of volunteers is five-times better today—about half remain after their initial (four-year) military service obligation. Said another way, two thirds of the military was serving in its first two years of service prior to 1973, where as today, the number is about one-fourth.

Today's Service members are still younger than the population as a whole, with 46 percent 25 years old or less. Thirty eight percent of these young Service members 25 years old or less are married and 21 percent of them have children. This is compared with approximately 13 percent of their contemporaries in the U.S. population 18 through 24 who are married (2000 Census). The majority of recruits come to the military from High School, with little financial literacy education.

The initial indoctrination provided to Service members is critical, providing basic requirements for their professional responsibilities and to successfully adjust to military life. Part of this training is in personal finance which is seen as an integral part of their responsibilities. The Department continues to provide them messages to save, invest and manage their money wisely throughout their career.

Service members and their families are experiencing the sixth year of the Global War on Terror. The Department views the support provided to military families as essential to sustaining force readiness and military capability. From this perspective, it is not sufficient for the Department to train Service members on how best to use their financial resources—financial protections are an important part of fulfilling the Department's compact with Service members and their families.

Social Compact

The Department of Defense (DoD) believes that assisting Service members with their family needs is essential to maintaining a stable, motivated All Volunteer Force. As part of the President's February 2001 call to improve the quality of life for Service members and their families, the Department of Defense developed a social compact reflecting the Department's commitment to caring for their needs as a result of their commitment to serving the Nation. The social compact involved a bottom-up review of the quality-of-life support provided by the Department, which articulated the linkage between quality-of-life programs as a human capital management tool and the strategic goal of the Department—military readiness.

The social compact is manifested in the programs the Department of Defense provides to support the quality of life of Service members and their families. This social compact includes personal finances as an integral part of their quality of life. The Department equates financial readiness with mission readiness. When asked in 2005 on a blind survey to rate the stressors in their lives, Service members (as a group) rated finances as a more significant stressor than deployments, health concerns, life events, and personal relationships. They only rated work and career concerns as a higher stressor in their lives. As part of the social compact for financial readiness, the Department established a strategic plan to:

- Reduce the stressors related to financial problems—the stress associated with out of control debt can impact the performance of Service members and have major negative impact on family quality of life.
- Increase savings—establishes personal and family goals, motivates Service members to control their finances and live within their means.
- Decrease dependence on unsecured debt—reduces the stressors and vulnerabilities associated with living from paycheck to paycheck.
- Decrease the prevalence of predatory practices—provide protection from financial practices that seek to deceive Service members or take advantage of them at a time of vulnerability.

The Department has taken action on obtaining these outcomes by providing financial awareness, education and counseling programs; by advocating the marketplace deliver beneficial products and services; and by advocating for the protection for Service members and their families from harmful products and practices.

Financial Education

The Military Services are expected to provide instruction and information to fulfill the needs of Service members and their families. To this end, the Department established policy in November 2004: DoD Instruction 1342.27, Personal Financial Management Programs for Service Member.

As outlined in the Government Accountability Office (GAO) Report 05–348, the Military Services have their own programs for training first-term Service members on the basics of personal finance. These programs vary in terms of venue and duration; however, all Military Service programs must cover the same core topics to the level of competency necessary for first term Service members to apply basic financial principles to everyday life situations.

The Department has tracked the ability of Service members to pay their bills on time as a reflection of their competency and ability to apply basic financial principles. Since 2002, self reported assessments through survey data have shown Service members are paying better attention to keeping up with their monthly payments.

To assist the Military Services in delivering financial messages, the Department established the Financial Readiness Campaign in May 2003, which has gathered the support of 26 nonprofit organizations and Federal agencies. In the past three years, Service members have benefited from the materials and assistance from over 20 active partnerships. These partnerships are on-going and have been developed to allow the Military Services to choose which partner programs can best supplement the education, awareness and counseling services they provide. The materials and services are not mandatory and do not take the place of the programs offered by the Military Services.

Aspects of predatory lending practices are covered as topics in initial financial education training and in refresher courses offered at the military installations. The Military Services provide over 10,000 classes and train approximately 24 percent of the force, as well as nearly 20,000 family members on an annual basis. These classes are primarily conducted on military installations located in the United States.

In addition to these classes, Financial Readiness Campaign partner organizations conduct over a thousand classes for informing over 60,000 Service members and family members per year. These classes are primarily provided by the staff of banks and credit unions located on military installations (military banks and defense credit unions). These institutions provide these classes as part of their responsibilities outlined in the DoD Financial Management Regulation. Other organizations involved include local Credit Counseling Agencies, State financial regulatory agencies, the InCharge Institute and the NASD Foundation.

The Military Service financial educators, along with partner organizations, also distributed over 200,000 brochures and pamphlets, with the Military Services and Federal Trade Commission the primary provider of these products. In addition, Military Money Magazine has run several

articles, to include two cover article editions on predatory lending. The free distribution of the magazine is through military commissaries, family support centers, other service agencies on the installation, residents on the military installations and home addresses off the installation upon request. The distribution is approximately 250,000 per quarter.

Lending Practices Considered Predatory

As identified in GAO Report 05–349, DOD's Tools for Curbing the Use and Effects of Predatory Lending Not Fully Utilized, April 2005, the review of practices that are considered predatory has not benefited from a consistent definition that has been universally applied. However, sources studying the issue of predatory lending have focused on similar characteristics. GAO Report 04–280, Federal and State Agencies Face Challenges in Combating Predatory Lending, January 2004, said the following:

> While there is no uniformly accepted definition of predatory lending, a number of practices are widely acknowledged to be predatory. These include, among other things, charging excessive fees and interest rates, lending without regard to borrowers' ability to repay, refinancing borrowers' loans repeatedly over a short period of time without any economic gain for the borrower, and committing outright fraud or deception.

This definition has been reiterated in the FDIC Office of the Inspector General Audit Report 06–0111, June 2006, which stated:

> Characteristics associated with predatory lending include, but are not limited to (1) abusive collection actions, (2) balloon payments with unrealistic repayment terms, (3) equity stripping associated with repeat financing and excessive fees, and (4) excessive interest rates that may involve steering a borrower to a higher-cost loan.

These same characteristics were also identified in the DoD Report to Congress on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents, August 9, 2006:

> Predatory lending in the small loan market is generally considered to include one or more of the following characteristics: High interest rates and fees; little or no responsible underwriting; loan flipping or repeat renewals that ensure profit without significantly paying down principal; loan packing with high cost ancillary products whose cost is not included in computing interest rates; a loan structure or terms that transform these loans into the equivalent of highly secured transactions; fraud or deception; waiver of meaningful legal redress; or operation outside of state usury or small loan protection law or regulation. The effect of the practices include whether the loan terms or practices listed above strip earnings or savings from the borrower; place the borrower's key assets at undue risk; do not help the borrower resolve their financial shortfall; trap the borrower in a cycle of debt; and leave the borrower in worse financial shape than when they initially contacted the lender.

While the Report to Congress provides a more expansive definition, there are several commonalities between the definitions listed above:

—Lending without regard of the borrowers ability to repay;
—Excessive fees and excessive interest rates;
—Balloon payments with unrealistic repayment terms;
—Wealth stripping associated with repeat rollovers/financing; and
—Fraud and deception.

The Department started collecting information on high cost lending in 2004 as part of the Defense Manpower and Data Center annual surveys of active duty Service members. The survey requested input on payday loans, rent-to-own, refund anticipation loans and vehicle title loans. GAO Report 05–359 focused on these four practices and obtained feedback from ''command leaders, [Personal Financial Management] PFM program managers, command financial counselors, legal assistance attorneys, senior noncommissioned officers (pay grades E8 to E9), chaplains, and staff from the military relief/aid societies,'' concerning these practices. Input from these individuals, among others was that ''The extent to which active duty Service members use consumer loans considered to be predatory in nature and the effects of such borrowing are unknown, but many sources suggest that providers of such loans may be targeting Service members.''

The Report to Congress reviewed five products (payday loans, vehicle-title loans, rent-to-own, refund anticipation loans and military installment loans) identified by installation-level financial counselors (employed as PFM program managers and employed by the Military Aid Societies) and legal assistance attorneys who regularly counsel service members on indebtedness issues. When compared against the common characteristics listed above, the five products reviewed in the Report to Congress measure up somewhat differently:

Lending product	Without regard for borrowers ability to repay	Excessive fees and interest	Unrealistic payment schedule	Repeated rollover/ refinancing
Payday loan	X	X	X	X
Vehicle title loan	X	X	X	X
Military installment		X		
Refund anticipation		X		
Rent-to-own	X	X		

A major concern of the Department has been the debt trap some forms of credit can present for Service members and their families already burdened with debt and recurring bills. The combination of little to no regard for the borrower's ability to repay the loan, unrealistic payment schedule, high fees and interest and the opportunity to rollover the loan instead of repaying it, can create a cycle of debt for financially overburdened Service members and their families.

Consumer groups, news media, and academics have chronicled concerns about payday loans and the propensity for this lending practice to create a cycle of debt. For example, M. Flannery and K. Smolyk state the following in their June 2005 FDIC Financial Research Working Paper No. 2005–09:

> Although as economists we find it hard to define what level of use is excessive, there seems little doubt that the payday advance as presently structured is unlikely to help people regain control of their finances if they start with serious problems.

Likewise, vehicle title loans are similarly structured, with potentially similar results. According to a November 2005 report by the Consumer Federation of America, vehicle title loans are generally made for 30 days with high interest/fee structures (average of 295 APR). Limits on title loans vary by State concerning interest rates, duration, rollover allowances and rules on repossessing the vehicle. Only four states cap interest rates at less than 100% APR. In many states these loans can be rolled over by the borrower

several times if the borrower is unable to pay the principal and interest when due. If not paid or rolled over, many states allow the creditor to repossess the vehicle and in some states the borrower is not entitled to any portion of the proceeds of the vehicle sale. Loan amounts average 55 percent of the value of the vehicle.

Rent-to-own, refund anticipation loans and some military installment loans present products with high fees and interest. Rent-to-own, which is not covered as credit under the Truth-in-Lending Act (TILA), can represent an expensive alternative to credit when used as a means of purchasing an item. Military installment loans (an installment loan marketed primarily or exclusively to the military) can represent a high cost over the duration of the loan, particularly when other non TILA fees and charges are added to the interest rate. Tax refund anticipation loans also cost Service members and their families high fees when they can easily obtain rapid returns through electronic filing with the assistance of their installation legal assistance office.

Refund anticipation loans (RALs) provide a limited time advantage (approximately 10 day reduction in the time required to receive a tax return) in comparison to the cost involved ($39–$100). As a consequence, the annual percentage rate for this credit can be triple digit. A study by Gregory Elliehausen of the Credit Research Center (CRC) (Monograph #37, April 2005) showed that more individuals below 35 years old use RALs (61 percent) as compared to the percentage under 35 years old who head households (28.6 percent). Seventy nine percent of Service members are age 35 or below.

The rationale for a borrower wanting to obtain a RAL vary; however, the CRC study showed that 41 percent of borrowers obtaining RALs did so to pay bills, 21 percent due to unexpected expenditures, 15 percent to make purchases, 15 percent because of impatience and 7 percent for other reasons. Less than one percent said they obtained a RAL to pay for tax preparation. Through the Armed Forces Tax Council, in collaboration with the IRS, Volunteer Income Tax Assistance (VITA) sites are located on all active duty military installations to assist Service members and their families with preparation and electronic filing of their tax returns.

As with other forms of short term high cost credit, the Department would prefer Service members and their families to consider low cost alternatives to resolve their financial crisis with the perspective that they should establish a more solid footing for their personal finances. The CRC study showed similar patterns of use of credit and debt burden between users of RALs and payday loans. Additionally, through education the Department attempts to persuade Service members that planning is an important part of managing finances, and a high cost 10 day loan does not reinforce this lesson.

The five products reviewed in the Report to Congress represent two kinds of financial problems for Service members and their families: Those products that contribute to a cycle of debt (payday and vehicle title loans) and those products that can cost the military consumer high fees and interest costs (rent-to-own, installment loans and refund anticipation loans). Cycle of debt represents a more significant concern to the Department than the high cost of credit.

Alternatives

The Department would prefer Service members and their families who experience financial duress seek out the alternatives available through Military Aid Societies, military banks and defense credit unions rather than credit products that would more likely mire them in a cycle of debt. These institutions have established programs and products designed to help Service members and their families resolve their financial crises, rebuild their credit and establish savings.

The Military Aid Societies are strong advocates for limiting the cost associated with credit and for creditors to develop alternative products for Service members who cannot otherwise qualify for loans. Within their own resources they provided $87.3 million in no cost loans and grants to Service members and their families in 2005. These funds were provided for emergencies and essentials, such as rent, food, and utilities.

Banks and credit unions located on military installations also understand the need to provide products and services that can help those who mishandle their finances and who may need remedial assistance. A review of on-base financial institutions surfaced 24 programs on 51 military installations in the U.S. providing alternative small loan products designed to help Service members and their families to recover from their financial problems. These financial institutions supplement the emergency funding made available by the nonprofit Military Aid Societies that provide grants and no-interest loans to needy Service members and families.

These banks and credit unions provide low denomination loans at reasonable annual percentage rates designed to assist their members who need to get out of high cost credit and into more traditional lending products. Financial counseling and education are often prerequisites for the short term loan and some institutions have attached a requirement to develop savings as part of the loan.

Many of these military banks and credit unions use their products and services to maintain a watchful eye over their members to ensure they do not abuse services designed to assist them, such as overdraft protection, which if used on a chronic basis, can become very expensive and propel someone already overextended into a deeper spiral of debt. Representatives of the Association of Military Banks of America had an opportunity to showcase their alternative small loan products at a FDIC Conference held in December of 2006. FDIC hosted this conference to spotlight the need to develop more of these types of products for Service members and their families and several banks and credit unions described above that currently provide such favorable credit to Service members participated in the conference.

Efforts To Curb the Prevalence and Impact of Predatory Loans

The Department has found that it has a small window of opportunity to inform and convince young Service families of what may constitute a beneficial product that can fit their circumstances, particularly when they receive many messages to the contrary. Nonetheless, the Department has attempted to use the processes and resources available within the Department to curb the prevalence of high cost short term lenders, particularly those that can contribute to a spiral of debt.

Predatory lenders have seldom been placed off-limits, primarily because the process associated with placing commercial entities off-limits, through the review and recommendations of the Armed Forces Disciplinary Control Board (AFDCB), is not well suited to this purpose. The AFDCB, covered by Joint Army Regulation 190–24, is designed to make businesses outside of military installations aware that their practices cause morale and discipline concerns and to offer these businesses an opportunity to modify their practices to preclude being placed off-limits. When the commercial entity refuses to comply, the AFDCB recommends to the regional command authority to place the business off-limits for all Service

members within the region (regardless of Service).

Normally concerns are raised when a business has demonstrated practices that violate state or federal statute, and remediation involves the business curtailing these illegal practices. In the case of the loan products listed above, businesses usually offer their services within the legal limits. Since the AFDCB takes on businesses one at a time, bringing a lender under scrutiny has been difficult if the lender is complying with the same rules as its competitors. Additionally, the magnitude of mediating with the number of outlets surrounding military installations has exacerbated the process. As illustrated in research by Professor Steven M. Graves and Professor Christopher L. Peterson published in the Ohio State Law Journal, Volume 66, Number 4, 2005, ''Predatory Lending and the Military: The Law and Geography of 'Payday' Loans in Military Towns,'' there are large numbers of payday lenders which can be found in communities around military installations.

Also, without appropriate authority, commanders and AFDCBs have difficulty citing lenders offering payday, auto title and refund anticipation loans as needing to take remedial action. In States that authorize these types of loans, AFDCBs must establish their own local guidelines in addition to the provisions of Federal and State law, ensure all affected businesses are aware of these new rules, and then require these businesses to comply.

The Department has considered establishing guidelines that would ameliorate the concerns posed by lenders characterized above, but establishing these policies within DoD poses legal problems and raises the potential for litigation against the Department. Prior to the Talent-Nelson Amendment of the John Warner National Defense Authorization Act of 2007 (10 U.S.C. 987), there has not been any established authority for DoD to make rules governing credit offered by off-base private businesses. Commercial businesses offering these loans could view DoD rules as restrictions outside of the existing statutes and policies governing these entities and burdens provided without sufficient statutory authority to establish rules governing their businesses. Without sufficient authority, the Department would have difficulty making ''off limits'' declarations enforceable and could lead to legal action.

As State governments have considered restricting or controlling payday lending, the Department has provided information concerning this issue and has extended its support for these measures to the extent that these provisions protect Service members and their families. Internet lenders claim jurisdiction in States with lax protections and unlimited rates and often attempt to bypass the State credit, usury or payday loan laws of the State where the borrower receives the loan. State regulators have successfully enforced home-State law against Internet payday lenders making loans to consumers in their States in Colorado, New York, Massachusetts, Kansas, Pennsylvania, and the District of Columbia.

As stated above, the Department will continue to provide education, awareness and counseling programs to influence skills and attitudes towards managing personal resources wisely. There still remains a gap between the opportunity to influence a young Service member or family concerning the best way to manage their finances, and the level of experience and capability necessary to be successful. The Department has a limited opportunity to impress upon these young people the importance of managing their resources, and does not have sufficient control over the behavior of Service members and their families to preclude them taking on financial risks that can impact not only their quality of life, but also the mission performance of Service members.

The Department will continue to send Service members messages that they and their families need to manage their resources wisely for their own benefit and to maintain personal readiness. The Department's call for responsibility competes with market messages from the sub-prime financial industry to get cash now for purchases, vacations, and paying bills. Their marketing stresses the ease and convenience of obtaining these loans, with virtual guarantee of approval. These messages can be particularly alluring to Service members and families already over burdened with bills and debts. A 2006 survey accomplished by the Consumer Credit Research Foundation stated that the primary reason Service members choose payday loans is because they are convenient. Certainly, obtaining ''fast cash'' from a payday lender is far more convenient than considering uncontrolled debt or addressing inherent overspending that creates situations where sub-prime loans are needed.

Service members have inherently understood that limits on interest rates are appropriate, even if these limits would decrease the availability of credit. When asked in a 2006 survey conducted by the Consumer Credit Research Foundation if Service members strongly/somewhat agree or disagree with the statement: ''The government should limit the interest rates that lenders can charge even if it means fewer people will be able to get credit,'' over 74 percent of the Service members surveyed agreed with the statement (with over 40 percent strongly agreeing). Similarly when asked their position on the statement ''There is too much credit available today,'' 75 percent of Service members not using payday loans and 63 percent of Service members using payday loans agreed (with 51 percent of non users strongly agreeing).

''Limitations on Terms of Consumer Credit Extended to Service Members and Dependents,'' John Warner National Defense Authorization Act for Fiscal Year 2007

After both the Congressional Banking and Armed Service Committees reviewed the issue of predatory lending directed at members of the Armed Forces and their dependents, the Armed Service Committees included § 670 in the John Warner National Defense Authorization Act for Fiscal Year 2007. The resulting statute, 10 U.S.C. 987, directs the Secretary of Defense to establish policy to implement the provisions of the statute. The Secretary is to accomplish the regulation prior to October 1, 2007, when the statute goes into effect, and to draft the regulation in consultation with the Department of Treasury, Office of the Comptroller of the Currency, Office of Thrift Supervision, Board of Governors of the Federal Reserve System, Federal Trade Commission, Federal Deposit Insurance Corporation, and the National Credit Union Administration. Specifically, section (h)(2) requires the Secretary of Defense to define key terms as part of developing the regulation:

''(A) Disclosures required of any creditor that extends consumer credit to a covered member or dependent of such a member.

(B) The method for calculating the applicable annual percentage rate of interest on such obligations, in accordance with the limit established under this section.

(C) A maximum allowable amount of all fees, and the types of fees, associated with any such extension of credit, to be expressed and disclosed to the borrower as a total amount and as a percentage of the principal amount of the obligation, at the time at which the transaction is entered into.

(D) Definitions of 'creditor' under paragraph (5) and 'consumer credit' under paragraph (6) of subsection (i), consistent with the provisions of this section.

(E) Such other criteria or limitations as the Secretary of Defense determines appropriate, consistent with the provisions of this section.''

This broad latitude allows the Department of Defense to determine the scope and impact of the regulation, consistent with the provisions of the statute. These provisions have been established to protect Service members and their families from potentially abusive lending practices and products. The provisions, or terms, of the statute provide several limitations on credit transactions, and the statute allows the Department to focus these limitations on areas that create the most concern.

Through correspondence received from numerous creditors and trade associations representing creditors, the Department has learned of the potential unintended consequences of these limitations that could potentially preclude Service members and their families from receiving a multitude of credit products not determined as harmful. These commenters suggested, as a simple way to limit the potential unintended consequences of the rule and adverse impact on the availability of credit for Service members by regulated depository institutions and their subsidiaries, that the regulations include a complete or limited carve-out from the ''creditor'' definition of insured depository institutions and their subsidiaries. As described in the section-by-section description that follows, the Department did not specifically propose to exclude any types of lenders from the regulatory definition of ''creditor.'' The intent of the statute is clearly to apply these limitations so that their impact is upon credit practices evaluated as negative without impeding the availability of credit that is benign or beneficial to Service members and their families. The Department is proposing a regulation it believes is fully consistent with this intent.

QUESTION 1: However, we seek comment on whether the final regulation should exclude regulated banks, credit unions and savings associations and their subsidiaries from coverage by the regulation generally, or in limited circumstances such as in the following circumstances: (1) the depository institutions are subject to supervision and regulation by a federal regulatory agency; (2) the institution extends covered ''consumer credit''; (3) the extension of consumer credit by the institution is subject to supervisory guidance by the federal bank regulatory agency that addresses consumer protection, disclosure, and safety and soundness criteria applicable to such lending; and (4) the federal bank regulatory agency agrees to act on matters referred to it by the Department concerning complaints that such lending to a covered member may be inconsistent with the supervisory guidance, applicable law, or is having an adverse effect on military readiness. Would depository institutions find an exclusion that is limited in this manner useful? The Department notes that if the final regulatory definition includes additional limitations on the definition of covered ''creditor,'' it would not be precluded from expanding that definition in the future as appropriate to address new concerns or changed circumstances.

II. Description of the Regulation, By Section:

232.1 and 232.2, Authority, purpose and coverage, and Applicability: No further descriptions provided other than that contained in the regulation.

232.3, Definitions:

In drafting a regulation to implement the statute, the Department has chosen to use the opportunity to define the terms ''creditor'' and ''consumer credit'' judiciously, having heard from numerous groups through comments received in response to **Federal Register** notice DoD–2006–OS–0216, solicited and unsolicited comments and through meetings requested of the Department that applying the provision broadly would create numerous unintended consequences. These unintended consequences would have a ''chilling effect'' on the availability of consumer credit covered as part of the statute.

In defining the term creditor, the statute provides the following:

''(5) *CREDITOR.*—The term 'creditor' means a person—

(A) who—

(i) is engaged in the business of extending consumer credit; and

(ii) meets such additional criteria as are specified for such purpose in regulations prescribed under this section; or

(B) who is an assignee of a person described in subparagraph (A) with respect to any consumer credit extended.''

Consistent with the statute, the proposed regulation defines ''creditor'' as any person who extends consumer credit covered by part 232. For this purpose a ''person'' includes both natural persons as well as business entities, but would exclude governmental entities. Pursuant to the Department's authority to specify additional criteria, a person would be a creditor only if the person is also a ''creditor'' for purposes of the Truth in Lending Act. For clarity, the Department has implemented the provision covering assignees by including a specific reference to assignees in each section of the regulation that would apply to an assignee, in lieu of including assignees in the definition of ''creditor.'' See sections 232.4, 232.8 and 232.9.

The definition of consumer credit provided in the statute is as follows:

''(6) *CONSUMER CREDIT.*—The term 'consumer credit' has the meaning provided for such term in regulations prescribed under this section, except that such term does not include (A) a residential mortgage, or (B) a loan procured in the course of purchasing a car or other personal property, when that loan is offered for the express purpose of financing the purchase and is secured by the car or personal property procured.''

This proposed regulation seeks to address the concerns addressed by many institutions and associations that corresponded with the Department by limiting the scope of the products upon which the provisions of the statute would apply. It is clearly the intent of the statute that consumer credit be defined by the Department, as long as it does not include the two listed exemptions. The definition in this proposed regulation clearly excludes these two types of loans and focuses on three problematic credit products that the Department identified in its August 2006 Report to Congress on the Impact of Predatory Lending Practices on Members of the Armed Forces and Their Dependents: payday loans, vehicle title loans, and refund anticipation loans.

With respect to exclusion of ''residential mortgages'' the proposed regulation clarifies that the exclusion applies to any credit transaction secured by an interest in the borrower's dwelling. Thus, home-purchase transactions, refinancings, home-equity loans, and reverse mortgages would be excluded. Home equity lines of credit are also excluded. In addition, the property need not be the consumer's primary dwelling to qualify for the exclusion. A ''dwelling'' includes any residential structure containing one to four units, whether or not the structure is attached to real property, and would also include an individual condominium unit, cooperative unit, mobile home, and manufactured home.

The Department's proposed definition of the term ''consumer credit'' is intended to narrow the regulation's

impact to consumer credit products and services that are potentially detrimental and for which there are DoD-recommended, alternative products or services available to Service members and their families. DoD believes that a narrow definition can prevent unintended consequences while affording the protections granted by the statute.

In addition to the above criteria, the Department intends to use the definition of consumer credit to encourage the financial services industry to offer affordable small loans for Service members and their families.

Payday Loans

Payday loans have common characteristics that make them detrimental to a Service member's financial well being and inferior to alternative sources of emergency support. These characteristics can exacerbate a cycle of debt, particularly if the borrower is already over-extended through the use of other forms of credit. The proposed regulation defines ''Payday loans'' based on certain characteristics, in order to distinguish them from other financial products. A payday loan is defined as a closed-end credit transactions having a term of 91 days or less, where the amount financed does not exceed $2,000. The ''amount financed'' is not defined in this regulation, but must be determined based on the definition of that term in the Federal Reserve Board's Regulation Z, which implements the Truth in Lending Act. In addition, the definition of ''payday loan'' is limited to transactions where the borrower contemporaneously provides a check or other payment instrument that the creditor agrees to hold, or where the borrower contemporaneously authorizes the creditor to initiate a debit or debits to the covered borrower's deposit account.

Payday loans, otherwise known as deferred presentment loans, are allowed in 39 States as a separate credit product from other forms of credit regulated by Federal or State statute. States authorizing these types of loans require payday lenders to obtain a license to operate within the State. States have defined these products and services, primarily through the basic process used to secure a payday loan, either through holding a check or by obtaining access to a bank account through electronic means. These basic processes have been included as part of the definition of payday loans in the regulation (Section 232.3(c)). Many States have also established limits to the amount that can be borrowed and the duration of the loan as part of the authorized activities of lenders licensed to offer these products and services. A review of State limits for payday loans establishes a foundation for the definition used in this regulation.

The majority of States have a maximum dollar amount, maximum time limits and maximum fees that regulate the product. Six States (New Mexico, Oregon, Texas, Utah, Wisconsin and Wyoming) have no dollar limit on the amount that can be loaned, and nine States (Alaska, Arizona, Idaho, New Mexico, Rhode Island, South Dakota, Virginia, Wisconsin and Wyoming) have no maximum limit established for the duration of a payday loan. Of the States with dollar and duration limits, the maximum amount loaned is $1,000 (Idaho and Illinois) and the maximum duration of a loan is 180 days (Ohio). The average dollar limit is $519 and the average duration limit is 46 days.

Payday loans offered over the internet often originate in States with no limits on fees or maximum loan amounts. A survey of Web sites offering payday loans indicates $1,500 as generally the maximum amount loaned. A review of sites marketing ''Military Payday Loans'' refer to loans of up to 40 percent of a Service member's take home pay. This amount can vary considerably based on rank, other entitlements, tax withheld and military allotments. For married enlisted Service members in the grade of E–6 and below (no deductions for taxes or other allotments), the proposed limit would cover a loan made for 40 percent of take home pay. The limits established in the definition for payday loans reflect the maximum duration and amount anticipated for loans based on current State practices, to include internet payday loans originating from locations without limits. *QUESTION 2: The Department seeks comments concerning whether the duration limit and monetary limit on the amount of the loan included in the definition of payday lending creates any unintended consequences for other credit products.*

The definition provided in 232.3(b)(1)(A)(ii) includes the following statement: ''This provision does not apply to any right of a depository institution under statute or common law to offset indebtedness against funds on deposit in the event of the covered borrower's delinquency or default.'' This exemption only applies if the depository institution has a right of offset under State or other applicable law.

As previously stated, the Department's intention is that the definition of payday loans does not impede creditors providing alternatives to payday loans with high fees. The Department's August 2006 report to the Congress describes a variety of affordable credit products that banks and credit unions located on military installations offer to members of the armed services. Such loans generally had annual percentage rates (APRs) for Truth in Lending Act purposes of 18% or less. Because the loans may be for a small dollar amount, any flat fee charged by the lender in connection with originating the loan could cause the Military Annual Percentage Rate (MAPR), defined by the proposed regulation, to exceed 36% even though the interest rate may be much lower.

Vehicle Title Loans

The Department believes that vehicle title loans meet the proposed definition of consumer credit, and that subjecting them to the proposed rule is consistent with the Department's intent in developing the regulation. The definition for ''vehicle title loans'' limits the rule's coverage to loans of 180 days or less. Many States have not established statutes overseeing these loans. A 2005 survey of States conducted by the Consumer Federation of America (CFA) found that, of the 16 States authorizing vehicle-title lending, 10 require 30 day or one month term limits (with authorized renewals or extensions), one State allows up to 60 days (with 6 renewals), one State requires installments and four States do not establish term limits. *QUESTION 3: The Department seeks comments as to whether the limits established for vehicle title loans for duration of the loan included as part of the definition cause any unintended consequences for other credit products.*

Refund Anticipation Loans

The Department believes that covering RALs is consistent with the intent of the Department's proposed regulation. RALs can also be defined to limit unintended consequences and refunds can be provided expeditiously. There have been only a few States that have developed statutes concerning RALs. Connecticut is the only state that has established a rate cap, and prohibit transactions where the APR exceeds 60 percent. Other states, such as California, Washington, Oregon and Nevada have established statutes specifying disclosure requirements for RALs.

The Department is interested in ensuring that lenders continue to offer responsible, small-dollar loan products that meet the credit needs of service members and their families. *QUESTION 4: Accordingly, the Department solicits comments on regulatory approaches*

that would encourage creditors to offer affordable, small-dollar, short-term loans to Service members and their dependents. For example, should transactions that would otherwise be covered as payday loans be exempt from coverage under these rules if the MAPR is less than 24% MAPR or some other rate specified in the rules? Would a similar rule be appropriate for vehicle-title loans or tax refund anticipation loans? Are there other approaches that DoD should consider?

The definition of MAPR creates a distinctive percentage rate that reflects the provisions of the statute. The MAPR does not include fees imposed for unanticipated late payments, default, delinquency or a similar occurrence, because such fees are imposed as a result of contingent events that may occur after the loan is consummated. Thus, such fees are not included in the computation of the maximum 36% MAPR cap imposed by these rules. *QUESTION 5: The Department solicits comment on whether there are other fees that should be expressly excluded for the same reason.*

232.4, Terms of consumer credit extended to covered borrowers: This section implements the statutory prohibition limiting the amount that creditors may charge for extensions of consumer credit to covered borrowers. The proposed rule mirrors the statutory language. This section also applies to ''assignees'' consistent with the statutory definition of ''creditor.''

232.5, Identification of covered borrower:

The Department has received several comments expressing concern over the potential difficulty in identifying a covered borrower, particularly in light of the penalties for failing to provide the statutory protections to a covered borrower. While DoD recognizes this concern, the Department would emphasize that identifying the covered borrower is only relevant in the context of transactions defined by the regulation as consumer credit (for payday loans, vehicle title loans and refund anticipation loans).

The Department's intent is to balance protections for covered borrowers (according to the statute) and protections for creditors. The Department understands creditors may otherwise decline offering beneficial credit products to covered borrowers as a result of concerns over penalties. To achieve an appropriate balance, the Department has proposed a safe harbor, under which the creditor may require the applicant to sign a statement declaring whether or not he or she is a covered borrower (using the definition from the statute). If required by the creditor, this declaration provides a ''safe harbor'' for the creditor to prevent inadvertently violating the statute by failing to recognize a covered borrower.

There is one caveat to this ''safe harbor'' provision. If the loan applicant signs a declaration that denies being a covered borrower, but the creditor obtains documentation as part of the credit transaction reflecting that the applicant is a covered borrower (such as, a current military leave and earning statement as proof of employment, or a tax filing that takes advantage of a specific tax provision designed to benefit the military), the applicant's declaration would not create a safe harbor for the creditor. In such cases creditors should seek to resolve the inconsistency, but if they are unable to do so, they may avoid any risk of noncompliance by treating the applicant as a covered borrower based on the documentation or by declining to extend credit due to the inability to verify information provided in the borrower's signed declaration.

This caveat is being included to prevent creditors from using the declaration to allow covered borrowers to waive their right to the protections provided by the regulation. This may occur when the creditor recognizes the applicant is a covered borrower, as a result of the documents presented as part of the credit transaction. The intent of this caveat is not to hold the creditor accountable for false statements made by an applicant when there is no indication through the credit transaction that the applicant is a covered borrower.

The opposite situation, where an applicant claims to be a covered borrower without presenting proof of his or her status does not require further validation by the creditor. However, creditors have the option of verifying the applicant's status as a covered borrower using several sources of information, but they are not required to do so. Thus, creditors may request applicants to provide proof of their current employment and income, for example by requesting from service members a copy of the most recent month's military leave and earning statement. Creditors may also request service members or dependents to provide a copy of their military identification card.

These sources, however, might not always be determinative. For example, in some a cases a leave and earnings statement might not reflect a recent change in the applicant's active duty status. Military identification cards, that are the same as identification cards carried by members of the active component, are issued to members of the National Guard and the Reserve regardless of their duty status. Hence, the proposed regulation states ''[u]pon such request, activated members of the National Guard or Reserves shall also provide a copy of the military orders calling the covered member to military service and any orders further extending military service.'' This would also be the case for their dependents. The proposed rule does not provide a safe harbor to creditors in the situation described in this paragraph.

It is the Department's understanding that providing proof of employment is a prerequisite to receiving a payday loan or a vehicle title loan. The military leave and earning statement is the document that provides validation of employment. There are several tax provisions which are directed toward assisting the military. If the tax preparer includes these provisions as part of the tax return, the creditor should be made aware of this disclosure in order to validate the status of the applicant prior to processing the application for a refund anticipation loan. *QUESTION 6: The Department would like feedback on the creditor's involvement in tax filing aspects of a refund anticipation loan.*

The Department intends to provide access to a database to creditors to validate the status of an applicant. This arrangement is currently available to creditors to validate the active duty status of Service members as part of implementation of benefits authorized by the Service Members Civil Relief Act (*https://www.dmdc.osd.mil/scra/owa/home*). The proposed database will include the status of covered borrowers and can be used to resolve questions creditors may have about the status of an applicant who denies being a covered member and yet presents information during the credit transaction that is contrary to this declaration. In these situations, the database would provide the most accurate verification of the status of the applicant, to include activated members of the National Guard and Reserve and their dependents.

QUESTION 7: Since this issue is critical to the success of the regulation, and also protecting the reputation of the creditor, the Department solicits further comment on the proposed ''safe harbor'' concept and the methodology proposed to implement the intended balance in approach to identification.

232.6, Mandatory disclosures:

Section 232.6 describes the disclosures that must be provided to covered borrowers before they become obligated on a consumer credit transaction, which includes the new

disclosures established under 10 U.S.C. 987 but also includes disclosures that creditors are already required to provide pursuant to the Federal Reserve Board's Regulation Z, which implements the Truth in Lending Act (TILA). Regulation Z contains certain requirements pertaining to the format of the TILA disclosures for closed-end credit transactions, including a requirement that they ''shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related'' to the disclosures required under Regulation Z. The Department intends that the disclosures required under this proposal be provided consistent with the format requirements of Regulation Z. Accordingly, the covered borrower identification statement described in § 232.5 and the disclosures provided pursuant to § 232.6(a)(1), (3), and (4) should not be interspersed with the TILA disclosures.

The general rule is that disclosures required by § 232.6(a)(1), (3), and (4) must be provided orally as well as in writing. However, in credit transactions entered into by mail or on the internet, a creditor complies with this requirement if the creditor provides covered borrowers with a toll-free telephone number on or with the written disclosures and the creditor provides oral disclosures when the covered borrower contacts the creditor for this purpose.

As with identification of the covered borrower, the Department has received several comments about potential disparities in disclosures required by this regulation as opposed to TILA, as well as the difficulty of potentially presenting disclosures orally under part 232 when an offer is made through the mail or over the internet. *QUESTION 8: The Department requests comment on whether the proposed rule for providing certain disclosures orally adequately addresses the compliance difficulties associated with the statutory requirements for oral disclosures, or whether another approach is more appropriate.*

As with other aspects of the statute, the Department's intention has been to develop a regulation that is true to the intent of the statute without creating a system that is so burdensome that the creditor cannot comply. The Department also recognizes the potential confusion inherent in mandating the disclosure of two annual percentage rates (the MAPR required by this regulation and the APR required by TILA). *QUESTION 9: DoD therefore seeks comments on this proposed requirement and invites suggestions on alternative approaches.*

232.7, Preemption: The proposed regulation would implement the statutory provision. Although revisions have been made to the statutory language for clarity, no substantive change is intended.

232.8, Limitations:

Section 232.8(a) implements the statutory provision in 10 U.S.C. 987(e)(1), which prohibits a creditor from extending consumer credit to a covered borrower in order to roll over, renew, or refinance consumer credit that was previously extended by the same creditor to the same covered borrower. The proposed regulation includes a limited exception to this prohibition, however, to permit workout loans and other refinancings that may benefit the borrower. *QUESTION 10: The Department solicits comment on whether it can or should adopt this approach.*

QUESTION 11: Assuming the final rule permits a creditor to roll over, renew or refinance credit that it previously extended to the same covered borrower in limited circumstances, the Department solicits comment on whether it can and should also adopt a rule clarifying that refinancings or renewals of a covered loan require new disclosures under § 232.6 only when the transaction would also be considered a new transaction that requires Truth in Lending Act disclosures. Whether or not new disclosures are required, the Department believes that when a creditor refinances or renews credit that it extended to a covered borrower the limitations on rates and terms apply in the same manner as they would for the original consumer credit transaction.

In some cases, a consumer might become a covered borrower after obtaining consumer credit. When consumers request to refinance or renew a short-term loan, creditors are likely to rely on their original determination that the consumer is not a covered borrower. The Department believes that it would be unnecessarily burdensome to impose a duty on creditors to make a new determination in each transaction given that a change in the borrower's status will infrequently occur with short-term transactions. Accordingly, the proposed rule would not apply when the same creditor extends consumer credit to a covered borrower to refinance or renew an extension of credit that was not covered by Part 232 because the consumer was not a covered borrower at the time of the original transaction.

QUESTION 12: The Department solicits comment on this approach. If such transactions were to be covered, however, should the disclosures in § 232.6 only be required for transactions also deemed to be transactions requiring new disclosures under the Truth in Lending Act?

Subparagraph (a)(3) makes it unlawful for any creditor to extend consumer credit to a covered borrower if the ''creditor requires the covered borrower to submit to arbitration or imposes other onerous legal notice provisions.'' The requirement is in accordance with 10 U.S.C. 987(e)(3). *QUESTION 13: The Department does not have the specific notice provisions or examples to include with this regulation and requests feedback on particular legal notice provisions that should be considered onerous.*

Similarly, subparagraph (a)(4) makes it unlawful for any creditor to extend consumer credit to a covered borrower if the ''creditor demands unreasonable notice from the covered borrower as a condition for legal action.'' This requirement is in accordance with 10 U.S.C. 987(e)(4), and as with onerous legal notice provisions, the Department does not have specific unreasonable notices or examples to include in the regulation. *QUESTION 14: Feedback is also requested on this provision and particular notice requirements that should be considered unreasonable.*

Section 232.8(a)(5) provides an exemptions to creditors, with respect to consumer credit, to use electronic fund transfer to repay a consumer credit, require direct deposit of the consumer's salary as a condition of eligibility for consumer credit, or take a security interest in funds deposited after the extension of credit in an account established in connection with the consumer credit transactions that are below 36% MAPR. This exemption is made with the recognition that this exemption must be provided in compliance with other applicable statutes governing the use of electronic fund transfers, savings and direct deposit of consumer's salary. The Department believes the flexibility provided by the 10 U.S.C. 987(h)(2)(E) may allow the Department the authority to provide this exemption to facilitate creditors to make alternative loans designed to assist covered borrowers with financial recovery. The Department believes providing this opportunity is important in fulfilling the Department's intended purpose of encouraging creditors to provide alternative loan products. *QUESTION 15: The Department solicits comments on whether it can or should adopt this proposed exemption.*

Section 8(a)(7) prohibits creditors from charging a prepayment penalty to

covered borrowers. The proposed rule does not define what constitutes a prepayment penalty, and the Department expects creditors to rely on existing state and federal laws, as applicable. *QUESTION 16: Comment is specifically solicited on this approach.*

232.9, Penalties and remedies:

This provision incorporates the penalties and enforcement provisions contained in the statute. Section 9 provides, among other things, that any credit agreement subject to the regulation which fails to comply with this regulation is void from inception. It further provides that a creditor or assignee who knowingly violates the regulation shall be subject to certain criminal penalties.

The statute, however, does not provide explicitly for enforcement of these rules beyond the provisions described above. The Department understands that the federal bank, thrift and credit union regulatory agencies have authority—derived from federal law unique to federally-regulated depository institutions—to enforce these rules with respect to the institutions that they supervise. However, the Department notes that this authority extends to a narrow category of depository institutions that it proposes to cover as ''creditors'' (See Question 1 above), but it does not extend to other creditors, such as nonbank lenders, that would also be covered creditors and that may be most likely to provide the types of consumer credit restricted by these rules. The Department is concerned that reliance solely on private litigation or criminal prosecution with respect to these other creditors may be insufficient to ensure uniform compliance with these rules with respect to all creditors. *QUESTION 17: Comment is requested on all aspects of these issues, and on how to ensure uniform implementation of, and compliance with, the statute by creditors not subject to oversight by the federal bank, thrift, and credit union regulatory agencies.*

232.10, Effective date and transition:

The comment period for this proposal is 60 days. The Department intends to review the comments in a timely manner in order to propose and publish final rules on or before September 1, 2007, which is 30 days before the rules would become effective on October 1, 2007. *QUESTION 18: Comment is solicited on the proposed timing for the publication of final rules. In particular, the Department requests comment on the ability of covered creditors to comply with the proposed rules by October 1 in light of the specific credit products that would be covered by the rules.*

Statutory Certification

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that 32 CFR part 232 is not an economically significant regulatory action. The rule does not:

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

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

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

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

Nevertheless, the proposed regulation was submitted to the Office of Management and Budget for review under other provisions of Executive Order 12866 as a significant regulatory action.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The North American Industrial Classification (NAIC) for the impacted businesses is 522390—''other financial activities related to credit intermediation.'' According to the 2002 Economic Census, there are approximately 5,205 small businesses related to this classification, with 3,000 of these small businesses having less than 5 employees. These 5,205 businesses represent a portion of the 51,725 potential respondents cited in the Paperwork Reduction Act evaluation.

The limitations and disclosures posed by this part impact a small percentage of the market served by the industries covered by this part. For example according to the payday lending trade association, Service members and their dependents represent approximately 1–2 percent of the payday lending market. Thus there is not a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

Section 232.6 of this proposed rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Title: Mandatory Loan Disclosures as Part of Limitations on Terms of Consumer Credit Extended to Service Members and Their Dependents.

Type of Request: New requirement.

Number of Respondents: 51,725.

Responses per Respondent: 1 per respondent.

Annual Responses: 1,219,035.

Average Burden per Response: 2–2.5 minutes, plus one business day to revise processes and two business days to revise applicable Web sites.

Annual Burden Hours: 182,105.

Needs and Uses: With respect to any extension of consumer credit (including any consumer credit originated or extended through the Internet) to a covered borrower, a creditor shall provide to the member or dependent the following information clearly and conspicuously before consummation of the consumer credit transaction:

(1) The Military Annual Percentage Rate (MAPR) applicable to the extension of consumer credit, and the total dollar amount of all charges included in the MAPR.

(3) A clear description of the payment obligation of the covered member or dependent, as applicable. A payment schedule provided pursuant to subsection (2) satisfies this requirement.

(4) A statement that ''Federal law provides important protections to active duty members of the Armed Forces and their dependents. Members of the Armed Forces and their dependents may be able to obtain financial

assistance from Army Emergency Relief, Navy and Marine Corps Relief Society, the Air Force Aid Society, or Coast Guard Mutual Aid. Members of the Armed Forces and their family members may request free legal advice regarding an application for credit from a service legal assistance office or financial counseling from a consumer credit counselor.''

The creditor shall provide the disclosures in writing in a form the covered borrower can keep. The creditor also shall provide the required disclosures orally. In mail and internet transactions, the creditor satisfies this requirement by providing a toll-free telephone number on or with the written disclosures that consumers may use to obtain oral disclosures.

Affected Public: Creditors making payday loans, vehicle title loans and refund anticipation loans.

Frequency: One for each loan transaction, which is equal to an occasional frequency .

Respondent's Obligation: Mandatory.

Written comments and recommendations on the proposed information collection should be sent to the Office of Management and Budget, Desk Officer for the Department of Defense, Room 10235, New Executive Office Building, Washington, DC 20503, *fax number:* (202) 395–6974 with a copy to the Office of the Under Secretary of Defense for Personnel and Readiness (MC&FP), DoD State Liaison Office, *Attn:* Mr. George Schaefer, 4000 Defense Pentagon, Washington, DC 20301–4000, telephone (703) 588–0876. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Office of the Under Secretary of Defense for Personnel and Readiness (MC&FP), DoD State Liaison Office, *Attn:* Mr. George Schaefer, 4000 Defense Pentagon, Washington, DC 20301–4000, or telephone Mr. Schaefer at (703) 588–0876.

Executive Order 13132 Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government.

The provisions of this part, as required by 10 U.S.C. 987, overrides State statutes inconsistent with this part to the extent that these provisions provide different protections for covered borrowers than those provided to residents of that State. As discussed in the section-by-section description of the proposed part, the provisions are more stringent for creditors providing consumer credit to covered borrowers (as defined in the part). In such circumstances, State laws would not be preempted by operation of this part.

In this respect, this proposed part, if adopted, would not affect in any manner the powers and authorities that any State may have or affect the distribution of power and responsibilities between Federal and State levels of government. Therefore, the Department has determined that the proposed part has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

List of Subjects in 32 CFR Part 232

Loan programs, Reporting and recordkeeping requirements, Service members.

For the reasons set forth in the preamble, chapter I of title 32, Code of Federal Regulations is proposed to amended by adding part 232 to read as follows:

PART 232—LIMITATIONS ON TERMS OF CONSUMER CREDIT EXTENDED TO SERVICE MEMBERS AND DEPENDENTS

Sec.

Authority: 10 U.S.C. 987.

§ 232.1 Authority, purpose, and coverage.

(a) *Authority.* This part is issued by the Department of Defense to implement 10 U.S.C. 987.

(b) *Purpose.* The purpose of this part is to impose limitations on the cost and terms of certain defined extensions of consumer credit to Service members and their dependents, and to provide additional consumer disclosures for such transactions.

(c) *Coverage.* This part defines the types of consumer credit transactions, creditors, and borrowers covered by this part, consistent with the provisions of 10 U.S.C. 987. In addition, this part:

(1) Provides the maximum allowable amount of all charges, and the types of charges, that may be associated with a covered extension of consumer credit;

(2) Requires creditors to disclose to covered borrowers the cost of the transaction as a total dollar amount and as an annualized percentage rate referred to as the Military Annual Percentage Rate or MAPR, which must be disclosed before the borrower becomes obligated on the transaction. The disclosures required by this regulation differ from and are in addition to the disclosures that must be provided to consumers under the Federal Truth in Lending Act;

(3) Provides for the method creditors shall use in calculating the MAPR, and;

(4) Contains such other criteria and limitations as the Secretary of Defense has determined appropriate, consistent with the provisions of 10 U.S.C. 987.

§ 232.2 Applicability.

This part applies to consumer credit extended by creditors to a covered borrower, as those terms are defined in this part.

§ 232.3 Definitions.

Terms used in this part are defined as follows:

(a) *Closed-end credit* means consumer credit other than ''open-end credit'' as that term is defined in Regulation Z (Truth in Lending), 12 CFR Part 226.

(b) *Consumer credit* means credit offered or extended to a covered borrower primarily for personal, family or household purposes, as described in paragraph (b)(1) of this section.

(1) Except as provided in paragraph (b)(2) of this section, consumer credit means the following transactions:

(i) *Payday loans.* Closed-end credit with a term of 91 days or less in which the amount financed does not exceed $2,000 and the covered borrower:

(A) Receives funds from and incurs interest and/or is charged a fee by a creditor, and contemporaneously provides a check or other payment instrument to the creditor who agrees with the covered borrower not to deposit or present the check or payment instrument for more than one day, or;

(B) Receives funds from and incurs interest and/or is charged a fee by a creditor, and contemporaneously authorizes the creditor to initiate a debit or debits to the covered borrower's deposit account (by electronic fund transfer or remotely created check) after one or more days. This provision does not apply to any right of a depository institution under statute or common law to offset indebtedness against funds on deposit in the event of the covered borrower's delinquency or default.

(ii) *Vehicle title loans.* Closed-end credit with a term of 181 days or less that is secured by the title to a motor vehicle owned by a covered borrower, other than a purchase money transaction described in paragraph (b)(2)(ii) of this section;

(iii) *Tax refund anticipation loans.* Closed-end credit in which the covered borrower expressly grants the creditor the right to receive all or part of the borrower's income tax refund or agrees to repay the loan with the proceeds of the borrower's refund.

(2) For purposes of this part, consumer credit does not mean:

(i) Residential mortgages, which are any credit transactions secured by an interest in the covered borrower's dwelling, including transactions to finance the purchase or initial construction of a dwelling, refinance transactions, home equity loans or lines of credit, and reverse mortgages;

(ii) Any credit transaction to finance the purchase or lease of a motor vehicle when the credit is secured by the property being purchased or leased;

(iii) Any credit transaction to finance the purchase of personal property other than a motor vehicle when the credit is secured by the property being purchased; and

(iv) Any other credit transaction that is not consumer credit extended by a creditor, is an exempt transaction, or is not otherwise subject to disclosure requirements for purposes of Regulation Z (Truth in Lending), 12 CFR Part 226.

(v) Credit secured by a qualified retirement account as defined in the Internal Revenue Code.

(c) *Covered borrower* means a person with the following status at the time he or she becomes obligated on a consumer credit transaction covered by this part:

(1) A regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or less, or such a member serving on Active Guard and Reserve duty as that term is defined in 10 U.S.C. 101(d)(6), or

(2) The member's spouse, the member's child defined in 38 U.S.C. 101(4), or an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered by this part.

(d) *Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(e) *Creditor* means a person who is engaged in the business of extending consumer credit with respect to a consumer credit transaction covered by this part. For the purposes of this section, ''person'' includes a natural person, organization, corporation, partnership, proprietorship, association, cooperation, estate, trust, and any other business entity and who otherwise meets the definition of ''creditor'' for purposes of Regulation Z.

(f) *Dwelling* means a residential structure that contains one to four units, whether or not the structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and manufactured home.

(g) *Electronic fund transfer* (EFT) has the same meaning for purposes of this part as in Regulation E (Electronic Fund Transfers) issued by the Board of Governors of the Federal Reserve System, 12 CFR Part 205.

(h) *Military annual percentage rate (MAPR).* The MAPR is the cost of the consumer credit transaction expressed as an annual rate. The MAPR includes the following cost elements associated with the extension of consumer credit to a covered borrower if they are financed, deducted from the proceeds of the consumer credit, or otherwise required to be paid as a condition of the credit: interest, fees, credit service charges, credit renewal charges, credit insurance premiums including charges for single premium credit insurance, fees for debt cancellation or debt suspension agreements, and fees for credit-related ancillary products sold in connection with and either at or before consummation of the credit transaction. The MAPR does not include a fee imposed for actual unanticipated late payments, default, delinquency, or similar occurrence. The MAPR does not include tax return preparation fees associated with a refund anticipation loan, whether or not the fees are deducted from the loan proceeds. The MAPR shall be calculated based on the costs in this definition but in all other respects it shall be calculated and disclosed following the rules used for calculating the Annual Percentage Rate (APR) for closed-end credit transactions under Regulation Z (Truth in Lending), 12 CFR Part 226.

(i) *Regulation Z* means any of the rules, regulations, or interpretations thereof, issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act, as amended from time to time, including any interpretation or approval issued by an official or employee duly authorized by the Board of Governors of the Federal Reserve System to issue such interpretations or approvals. Words that are not defined in this part have the meanings given to them in Regulation Z (12 CFR part 226) issued by the Board of Governors of the Federal Reserve System (the ''Board''), as amended from time to time, including any interpretation thereof by the Board or an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations. Words that are not defined in this part or Regulation Z, or any interpretation thereof, have the meanings given to them by State or Federal law, or contract.

§ 232.4 Terms of consumer credit extended to covered borrowers.

(a) A creditor who extends consumer credit to a covered borrower and an assignee of the creditor, shall not require the member or dependent to pay a military annual percentage rate with respect to such extension of credit, except as—

(1) Agreed to under the terms of the credit agreement or promissory note;

(2) Authorized by applicable State or Federal law; and

(3) Not specifically prohibited by this part.

(b) A creditor described in paragraph (a) of this section or an assignee may not impose an MAPR greater than 36 percent in connection with an extension of consumer credit to a covered borrower.

§ 232.5 Identification of covered borrower.

(a) This part shall not apply to a consumer credit transaction if the

conditions described in paragraphs (a)(1) and (2) of this section are met:

(1) Prior to becoming obligated on the transaction, each applicant is provided with a clear and conspicuous ''covered borrower identification statement'' substantially similar to the following statement and each applicant signs the statement indicating that he or she is not a covered borrower:

Federal law provides important protections to active duty members of the Armed Forces and their dependents. To ensure that these protections are provided to eligible applicants, we require you to sign one of the following statements as applicable:
I AM a member of the Armed Forces on active duty.
I AM a dependent of a member of the Armed Forces on active duty because I am the member's spouse, the member's child under the age of eighteen years old, or I am an individual for whom the member provided more than one-half of my financial support for 180 days immediately preceding today's date.
—OR—
I AM NOT a member of the Armed Forces on active duty (or a dependent of such a member).
Warning: It is important to fill out this form accurately. Knowingly making a false statement on a credit application is a crime

(2) The creditor has not determined, pursuant to the optional verification procedures in paragraph (b) of this section, that any such applicant is a covered borrower.

(b) The creditor may, but is not required to, verify the status of an applicant as a covered borrower by requesting the applicant to provide a current (previous month) military leave and earning statement, or a military identification card (DD Form 2 for members, DD Form 1173 for dependents), as described in DoD Instruction 1003.1, Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals, December 5, 1997. Upon such request, activated members of the National Guard or Reserves shall also provide a copy of the military orders calling the covered member to military service and any orders further extending military service.

(c) The creditor may, but is not required to, verify the status of an applicant as a covered borrower by accessing the information available at *https://www.dmdc.osd.mil/scra/owa/home*. Searches require the service member's full name, Social Security number, and date of birth.

(d) This part shall not apply to a consumer credit transaction in which the creditor rolls over, renews, repays, refinances, or consolidates consumer credit in accordance with § 232.8(a)(1) if § 232.5(a)(1) and (2) applied to the previous transaction.

§ 232.6 Mandatory loan disclosures

(a) *Required information.* With respect to any extension of consumer credit (including any consumer credit originated or extended through the Internet) to a covered borrower, a creditor shall provide to the member or dependent the following information clearly and conspicuously before consummation of the consumer credit transaction:

(1) The MAPR applicable to the extension of consumer credit, and the total dollar amount of all charges included in the MAPR.

(2) Any disclosures required by Regulation Z (Truth in Lending), 12 CFR Part 226.

(3) A clear description of the payment obligation of the covered borrower, as applicable. A payment schedule provided pursuant to paragraph (a)(2) of this section satisfies this requirement.

(4) A statement that ''Federal law provides important protections to active duty members of the Armed Forces and their dependents. Members of the Armed Forces and their dependents may be able to obtain financial assistance from Army Emergency Relief, Navy and Marine Corps Relief Society, the Air Force Aid Society, or Coast Guard Mutual Aid. Members of the Armed Forces and their dependents may request free legal advice regarding an application for credit from a service legal assistance office or financial counseling from a consumer credit counselor.''

(b) *Method of disclosure.* (1) *Written disclosures.* The creditor shall provide the disclosures required by paragraph (a) of this section in writing in a form the covered borrower can keep.

(2) *Oral disclosures.* The creditor also shall provide the disclosures required by paragraphs (a)(1), (3) and (4) of this section orally before consummation. In mail and internet transactions, the creditor satisfies this requirement if it provides a toll-free telephone number on or with the written disclosures that consumers may use to obtain oral disclosures and the creditor provides oral disclosures when the covered borrower contacts the creditor for this purpose.

§ 232.7 Preemption.

(a) *Inconsistent laws.* 10 U.S.C. 987 as implemented by this regulation preempts any State or Federal law, rule or regulation, including any State usury law, to the extent such law, rule or regulation is inconsistent with this part, except that any such law, rule or regulation is not preempted to the extent that it provides protection to a covered borrower beyond those protections provided by 10 U.S.C. 987 and this part.

(b) *Different treatment under State law of covered borrowers prohibited.* States may not:

(1) Authorize creditors to charge covered borrowers MAPRs for consumer credit higher than the legal limit for residents of the State, or

(2) Permit the violation or waiver of any State consumer lending protection that is for the benefit of residents of the State on the basis of the covered borrower's nonresident or military status, regardless of the covered borrower's domicile or permanent home of record, provided that the protection would otherwise apply to the covered borrower.

§ 232.8 Limitations.

(a) 10 U.S.C. 987 makes it unlawful for any creditor to extend consumer credit to a covered borrower with respect to which:

(1) The creditor rolls over, renews, repays, refinances, or consolidates any consumer credit extended to the covered borrower by the same creditor with the proceeds of other consumer credit extended by that creditor to the same covered borrower, unless the new transaction results in more favorable terms to the covered borrower, such as a lower MAPR.

(2) The covered borrower is required to waive the covered borrower's right to legal recourse under any otherwise applicable provision of State or Federal law, including any provision of the Servicemembers Civil Relief Act (50 U.S.C. App. 527).

(3) The creditor requires the covered borrower to submit to arbitration or

imposes other onerous legal notice provisions in the case of a dispute.

(4) The creditor demands unreasonable notice from the covered borrower as a condition for legal action.

(5) The creditor uses a check or other method of access to a deposit, savings, or other financial account maintained by the covered borrower, or uses the title of a vehicle as security for the obligation, except that, in connection with a consumer credit transaction with an MAPR consistent with § 232.4(b):

(i) The creditor may require an electronic fund transfer to repay a consumer credit transaction, unless otherwise prohibited by Regulation E (Electronic Fund Transfers) 12 CFR Part 205;

(ii) The creditor may require direct deposit of the consumer's salary as a condition of eligibility for consumer credit, unless otherwise prohibited by law; or

(iii) The creditor may, if not otherwise prohibited by applicable law, take a security interest in funds deposited after the extension of credit in an account established in connection with the consumer credit transaction.

(6) The creditor requires as a condition for the extension of consumer credit that the covered borrower establish an allotment to repay the obligation.

(7) The covered borrower is prohibited from prepaying the consumer credit or is charged a penalty fee for prepaying all or part of the consumer credit.

(b) For purposes of this section, an assignee may not engage in any transaction or take any action that would be prohibited for the creditor.

§ 232.9 Penalties and remedies.

(a) *Misdemeanor.* A creditor or assignee who knowingly violates 10 U.S.C. 987 as implemented by this part shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(b) *Preservation of other remedies.* The remedies and rights provided under 10 U.S.C. 987 as implemented by this part are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under the statute, including any award for consequential damages and punitive damages.

(c) *Contract void.* Any credit agreement, promissory note, or other contract with a covered borrower which fails to comply with 10 U.S.C. 987 as implemented by this regulation or which contains one or more provisions prohibited under 10 U.S.C. 987 as implemented by this regulation is void from the inception of the contract.

(d) *Arbitration.* Notwithstanding 9 U.S.C. 2, or any other Federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit involving a covered borrower pursuant to this part shall be enforceable against any covered borrower, or any person who was a covered borrower when the agreement was made.

§ 232.10 Servicemembers Civil Relief Act protections unaffected.

Nothing in this part may be construed to limit or otherwise affect the applicability of Section 207 and any other provisions of the Servicemembers Civil Relief Act (50 U.S.C. App. 527).

§ 232.11 Effective date and transition.

Applicable consumer credit—This part shall only apply to consumer credit that is extended to a covered borrower and consummated on or after October 1, 2007.

Dated: April 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DOD.

[FR Doc. 07–1780 Filed 4–6–07; 12:20 pm]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–017]

RIN 1625–AA08

Special Local Regulations for Marine Events; Rappahannock River, Essex County, Westmoreland County, Layton, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a temporary special local regulation for ''2007 Rappahannock River Boaters Association Spring Radar Shootout'', power boat races to be held on the waters of the Rappahannock River near Layton, VA. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Rappahannock River during the event.

DATES: Comments and related material must reach the Coast Guard on or before May 11, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 415 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 391–8149. The Coast Guard Inspections and Investigations Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Marine Events Coordinator, Fifth Coast Guard District, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–017), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to the Coast Guard at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On June 30, 2007, the Rappahannock River Boaters Association (RRBA) will sponsor the ''2006 RRBA Spring Radar Shootout'', on the waters of the Rappahannock River near Layton, Virginia. The event will consist of approximately 35 powerboats participating in high-speed competitive races, traveling along a 3-mile strait line

race course. Participating boats will race individually within the designated course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Rappahannock River. The temporary special local regulations will be enforced from 11:30 a.m. to 4:30 p.m. on June 30 2007, and will restrict general navigation in the regulated area during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Although this regulation will prevent traffic from transiting a portion of the Rappahannock River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this section of the Rappahannock River during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a short period, from 11:30 a.m. to 4:30 p.m. on June 30, 2007. Although the regulated area will apply to a 3 mile segment of the Rappahannock River immediately east of Layton, Virginia, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard patrol commander. In the case where the patrol commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive

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

Energy Effects

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

Technical Standards

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

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

Environment

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

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 100.35–T05–017 to read as follows:

§ 100.35–T05–017 Rappahannock River, Essex County, Westmoreland County, Layton, Virginia.

(a) *Regulated area.* The regulated area is established for the waters of the Rappahannock River, adjacent to Layton, VA, from shoreline to shoreline, bounded on the west by a line running along longitude 076°58′30″ W., and bounded on the east by a line running along longitude 076°56′00″ W. All coordinates reference Datum NAD 1983.

(b) *Definitions.* As used in this section (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 11:30 a.m. to 4:30 p.m. on June 30, 2007.

Dated: March 26, 2007.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. E7–6778 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–07–033]

RIN 1625–AA00

Safety Zone: Big Timber Creek, Westville, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary Safety Zone during the ''Westville Parade of Lights'', an event to be held June 30, 2007. This Safety Zone is necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in the regulated area within Big Timber Creek.

DATES: Comments and related material must reach the Coast Guard on or before May 11, 2007.

ADDRESSES: You may mail comments and related material to Commander, Coast Guard Sector Delaware Bay, One Washington Avenue, Philadelphia, Pennsylvania 19147–4335, hand-deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (215) 271–4903. The Sector Delaware Bay, Waterways Management Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nicole Brophy, Project Manager, Waterways Management Branch, at (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–033), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On June 30, 2007, the Borough of Westville and Westville Power Boat will sponsor the ''Parade of Lights''. There will be a boat parade from the Route 130 Bridge to the Delaware River entrance in Big Timber Creek along with a fireworks display launched from land with a fallout area extending over the navigable waters of Big Timber Creek in the vicinity of Westville, New Jersey. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish a safety zone on Big Timber Creek in Westville, NJ, encompassing all waters from the Route 130 Bridge to the entrance of the Delaware River, shoreline to shoreline. The safety zone will be in effect from 8 p.m. to 11 p.m. on June 30, 2007. The effect will be to restrict general navigation in the regulated area during the boat parade and fireworks display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement period. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this regulation restricts vessel traffic from transiting a portion of Big Timber Creek near Westville, New Jersey, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts and area newspapers so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of Big Timber Creek in the vicinity of Westville, New Jersey during the event.

This proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons. The rule will be in effect for only a short period, from 8 p.m. to 11 p.m. on June 30, 2007. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an

environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T05–033 to read as follows:

§ 165.T05–033 Safety Zone; Big Timber Creek, Westville, New Jersey

(a) *Regulated area.* The safety zone includes waters from the Route 130 Bridge in Westville, NJ, to the entrance of the Delaware River, shoreline to shoreline on Big Timber Creek.

(b) *Definitions.* As used in this section:

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Delaware Bay.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Delaware Bay with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(d) *Enforcement Period.* This section will be enforced from 8 p.m. to 11 p.m. on June 30, 2007.

Dated: March 27, 2007.

David L. Scott,

Captain, U.S. Coast Guard, Captain of the Port, Sector Delaware Bay.

[FR Doc. E7–6776 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–07–030]

RIN 1625–AA00

Safety Zone: Fireworks Display, North Atlantic Ocean, Avalon, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary Safety Zone during the ''Avalon Family Fun Festival Fireworks Display'', an event to be held July 6, 2007. This Safety Zone is necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in the regulated area within coastal waters adjacent to Avalon, New Jersey to accommodate a fireworks display.

DATES: Comments and related material must reach the Coast Guard on or before May 11, 2007.

ADDRESSES: You may mail comments and related material to Commander, Coast Guard Sector Delaware Bay, One Washington Avenue, Philadelphia, Pennsylvania 19147–4335, hand-deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (215) 271–4903. The Sector Delaware Bay, Waterways Management Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nicole Brophy, Project Manager, Waterways Management Branch, at (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–030), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On July 6, 2007, the Borough of Avalon will sponsor the ''Avalon Family Fun Festival Fireworks Display''. The fireworks display will be launched from a barge offshore and the hazardous fallout area will extend over coastal waters immediately adjacent to the shoreline in the vicinity of Avalon, New Jersey. A fleet of spectator vessels is expected to gather near the event site to view the fireworks display. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

Discussion of Rule

The Coast Guard proposes to establish a safety zone on specified coastal waters of the North Atlantic Ocean, immediately adjacent to the shoreline at Avalon, New Jersey. The regulated area includes all waters within a 500 yard radius from latitude 39°05′31″ N, 074°43′00″ W. The safety zone will be in effect from 5 p.m. to 10:30 p.m. on July 6, 2007. The effect will be to restrict general navigation in the regulated area during the fireworks display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement period. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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

Although this regulation restricts vessel traffic from transiting a small segment of coastal waters near Avalon, New Jersey, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts and area newspapers so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit coastal waters in the vicinity of Avalon, New Jersey during the event.

This proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a short period, from 5 p.m. to 10:30 p.m. on July 6, 2007. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice

Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T05–030 to read as follows:

§ 165.T05–030 Safety zone; North Atlantic Ocean, Avalon, New Jersey.

(a) *Regulated area.* The safety zone includes coastal waters in the vicinity of the shoreline at Avalon, New Jersey. The safety zone area includes all waters within a 500 yard radius from latitude 39°05′31″ N, 074°43′00″ W. All coordinates reference Datum NAD 1983.

(b) *Definitions.* As used in this section:

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Delaware Bay.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Delaware Bay with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement period.* This section will be enforced from 5 p.m. to 10:30 p.m. on July 6, 2007.

Dated: March 27, 2007.

David L. Scott,

Captain, U.S. Coast Guard, Captain of the Port, Sector Delaware Bay.

[FR Doc. E7–6779 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–07–037]

RIN 1625–AA00

Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone upon certain waters of the Patuxent River during a fireworks display. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge, located near Solomons, in Calvert County, Maryland. This action will restrict vessel traffic in a portion of the Patuxent River.

DATES: Comments and related material must reach the Coast Guard on or before May 11, 2007.

ADDRESSES: You may mail comments and related material to Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791. Coast Guard Sector Baltimore, Waterways Management Division, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part

of this docket and will be available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–037), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Sector Baltimore, Waterways Management Division, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Each year, thousands of spectators attend outdoor fireworks displays discharged from vessels or floating platforms on or near the navigable waters of the United States. Accidental discharge of fireworks and falling hot embers are a safety concern during such events. The Coast Guard has the authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard proposes to establish a safety zone that will be enforced during a fireworks display held over the Patuxent River, near Solomons, in Calvert County, Maryland. The proposed rule is needed to control movement through a portion of the waterway that is expected to be populated by vessels seeking to view the fireworks display.

Discussion of Proposed Rule

On July 4, 2007, the Solomons Island Business Association, will sponsor an Independence Day celebration fireworks display launched from two adjoining barges located on the Patuxent River near Solomons, in Calvert County, Maryland. The planned event includes an aerial fireworks display beginning at 9 p.m. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to falling embers or other debris associated with a fireworks display from a barge. This rule proposes to establish a safety zone on the waters of the Patuxent River, within a radius of 400 yards around a fireworks barge, which will be located at position latitude 38°19′03.0″ N, longitude 076°26′07.6″ W. The Coast Guard anticipates a large recreational boating spectator fleet during this event. The rule will impact the movement of all vessels operating in a specified area of the Patuxent River. Interference with normal port operations is unlikely; however, if required, will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The safety zone will be in effect for only two and one-half hours on one day of the year, commercial traffic in the area is limited, and vessels not constrained by their draft may proceed safely around the safety zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities: The owners or operators of vessels intending to operate, remain or anchor within certain waters of the Patuxent River, within a radius of 400 yards around a fireworks barge located at position latitude 38°19′03.0″ N, longitude 076°26′07.6″ W, from 7:30 p.m. to 10 p.m. on July 4, 2007, and if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for two and one-half hours, commercial vessel traffic in this area is limited, vessels not constrained by their draft may proceed safely around the safety zone, and the Coast Guard will issue maritime advisories widely available to users of the river before the effective period.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T05–037 to read as follows:

§ 165.T05–037 Safety zone; Fireworks display, Patuxent River, Calvert County, MD.

(a) *Location.* The following area is a safety zone: All waters of the Patuxent River near Solomons, in Calvert County, Maryland, surface to bottom, within a radius of 400 yards around a fireworks barge which will be located at position latitude 38°19′03.0″ N, longitude 076°26′07.6″ W. All coordinates reference Datum NAD 1983.

(b) *Definition.* The Captain of the Port Baltimore means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Captain of the Port, Baltimore, Maryland.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF channel 16 (156.8 MHz).

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer

on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Enforcement period.* This section will be enforced from 7:30 p.m. to 10 p.m. on July 4, 2007, and if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007.

Dated: April 2, 2007.

Jonathan C. Burton,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. E7–6782 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–15–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1192

[Docket No. 2007–1]

RIN 3014–AA38

Americans With Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Availability of draft revisions to guidelines.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has placed in the docket and on its web site for public review and comment draft revisions to the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles. The draft revisions to the guidelines cover only buses, vans and similar vehicles. Draft revisions to the guidelines for other modes will be issued later. Comments will be accepted on the draft revisions to the guidelines, and the Access Board will consider those comments prior to issuing a notice of proposed rulemaking to update the guidelines.

DATES: Comments on the draft revisions to the guidelines must be received by June 11, 2007.

ADDRESSES: Comments should be sent to Docket 2007–1, Office of Technical and Informational Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. E-mail comments should be sent to *cannon@access-board.gov*. Comments sent by e-mail will be considered only if they contain the full name and address of the sender in the text. Comments will be available for inspection at the above address from 9 a.m. to 5 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington DC 20004–1111. *Telephone number:* (202) 272–0015 (voice); (202) 272–0082 (TTY). *Electronic mail address: cannon@access-board.gov*.

SUPPLEMENTARY INFORMATION: In 1991, the Architectural and Transportation Barriers Compliance Board (Access Board) issued the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles, which is codified at 36 CFR part 1192. The guidelines have not been updated since they were issued, except for modifications for over-the-road buses in 1994. The Access Board is beginning the process of updating the guidelines by publishing draft revisions to subparts A and B of 36 CFR part 1192, which contain general provisions and cover buses, vans and similar vehicles. Draft revisions to other subparts, which cover other modes, will be available later. Changes are proposed to accommodate new technology and vehicles, and new system designs, particularly Bus Rapid Transit.

Subsequent to issuance of the guidelines in 1991, the National Highway Traffic Safety Administration (NHTSA) issued regulations for vehicle lifts. The Access Board will coordinate its rulemaking with NHTSA to ensure consistency.

The Access Board is making the draft revisions to the guidelines and supplemental information available for public review and comment prior to issuing a notice of proposed rulemaking to update the guidelines. Comments on the draft revisions to the guidelines will be considered by the Access Board in developing the notice of proposed rulemaking to update the guidelines, which will also be open for public comment. The draft revisions to the guidelines and supplementary information are available on the Access Board's Internet site (*http://www.access-board.gov/vguidedraft.htm*). You may also obtain a copy of the draft guidelines and supplementary information by contacting the Access Board at (202) 272–0080. Persons using a TTY should call (202) 272–0082. The documents are available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, Braille, large print, or ASCII disk.)

James J. Raggio,

General Counsel.

[FR Doc. E7–6722 Filed 4–10–07; 8:45 am]

BILLING CODE 8150–01–P

POSTAL SERVICE

39 CFR Part 111

New Standards for Periodicals Mailing Services

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides the revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) that we propose to adopt in support of the new Periodicals pricing and price structure to be implemented on July 15, 2007.

The new prices will enhance efficiency, offer more choices, and better ensure that all types of Periodicals mail cover their costs. Periodicals mailers will have new incentives to use efficient containers and bundles, and copalletization will become a permanent offering to encourage more publishers to combine mailings. We also add new prices for the editorial portion of a mailing to give mailers of high-editorial-content publications access to lower destination entry rates.

DATES: We must receive your comments on or before April 25, 2007.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 3436, Washington, DC 20260–3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor N., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joel Walker, 202–268–7266; or Carrie Witt, 202–268–7279.

SUPPLEMENTARY INFORMATION: On May 14, 2007, the Postal Service will adopt new prices and mailing standards to support the majority of the Docket No. R2006–1 pricing change recommended by the Postal Regulatory Commission and accepted by the Governors of the United States Postal Service. The Postal Service Board of Governors is delaying the implementation of new Periodicals prices and mailing standards until July 15, 2007, to give postal employees and

mailers more time to prepare for the new pricing structure recommended by the Commission. This proposal provides the revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) that we propose to adopt in support of the Periodicals portion of the Docket No. R2006–1 pricing change.

You can find this Periodicals proposal, as well as the rate case final rule for all other classes of mail, at *www.usps.com/ratecase.* We also provide rate charts and other helpful information for mailers, including frequently asked questions, press releases, and *MailPro* articles related to the pricing change.

Background

In our request for a recommended decision filed with the Commission on May 3, 2006, we proposed Periodicals rates based on pieces, pounds, and a single container charge. The Commission recommended rates based on pieces and pounds but also on bundles, sacks, and pallets. Piece rates vary based on machinability, barcoding, and presort level. Bundle, sack, and pallet rates vary based on presort level and point of entry. The recommended rate structure is much more complex than the one we originally proposed. Ideally, by explicitly recognizing the cost differences between various bundles, containers, and entry points, many mailers will respond to these price signals, bring down costs, and improve the cost-coverage for all Periodicals mailers.

For In-County Periodicals, the rate design is still based on pieces and pounds, as it is today. Since many publications use both Outside-County and In-County rates, the Board set the same July 15 implementation date for both subclasses, and for all Periodicals fees.

Overview of New Outside-County Periodicals Rate Design

In general, mailers who sort their mail to the 5-digit and carrier route levels on destination-entered pallets will pay the lowest rates. Mailers should note that the piece, pound, bundle, and container rates are designed to work together to more accurately reflect handling and delivery costs. We suggest that mailers test different preparation scenarios to see the interplay between variables and how their own mail will be affected.

New Container Rate Structure

The new rate structure adds container rates for Periodicals mail. We define a ''container'' as a tray, sack, pallet, or other equivalent USPS-approved container. Most of our standards for mail preparation are not changing as a result of the new rate structure. Mailers will still follow the mail preparation requirements in DMM 705, 707, and 708, which specify when to prepare mail in bundles and when to place it in trays, sacks, and pallets. We note that mailers must follow the preparation and entry requirements in the DMM. Mailers cannot choose to use certain containers (or to not use containers) to circumvent the rates.

New Outside-County container rates are based on the type of container (tray, sack, or pallet), the level of sortation of the container, and where the container is entered. We will apply the container rates to pallets, sacks, and trays containing Outside-County Periodicals mail (except for mixed containers of In-County and Outside-County pieces in carrier route, 5-digit carrier routes, and 5-digit/scheme containers). When trays and sacks are placed on pallets, we propose to charge for each tray and sack, but not for the pallets. This should encourage mailers to use pallets.

Container rates decrease with deeper entry because there are fewer handlings needed. Our best rates are for mail that is finely sorted on pallets and entered close to its destination. For example, the price for a 5-digit pallet entered at the DDU is $1.20, compared to $15.50 if entered at the DADC.

On the other hand, when entered at the same facility level, prices are higher for more-finely presorted containers than for those that are less-finely presorted. The difference reflects the additional handlings that the more-finely presorted container will get before it is opened. For instance, for origin entry, the price for a 5-digit pallet is $26.95, or $8.34 higher than the $18.61 price for an ADC pallet.

Working in the opposite direction, a bundle in a less-finely presorted container requires more handlings prior to piece sortation than the same level bundle in a more-finely presorted container, and bundle prices reflect this. The price for a 5-digit bundle is $0.095 on an ADC pallet, but only $0.008 on a 5-digit pallet, a difference of $0.087.

Therefore, as the container presort-level becomes finer, container prices increase but prices for bundles within the container decrease. The lower bundle postage will offset some, all, or more than all of the higher container postage.

Taken as a whole, the inter-relationships among the per-container, per-bundle and per-piece prices in this rate structure provide further incentives for mailers to comail and copalletize.

The rate structure also provides new rates for pallets and for sacks on pallets entered at the destination bulk mail center (DBMC) to ensure efficient handling and consistent service. These rates reflect the cost of cross-docking pallets and do not represent a new pallet or sack sortation level. Mailers can enter Periodicals mail at the DBMCs listed in DMM Exhibit 346.3.1, or at a USPS-designated facility. For DBMC entry, pieces must be prepared in bundles or in sacks on ADC, 3-digit, or 5-digit pallets, and addressed for delivery to one of the 3-digit ZIP Codes served by that BMC.

New Bundle Rate Structure

We are adopting new rates for bundles of Periodicals mail, but we are not changing the definition of a bundle or the bundling requirements. A ''bundle'' is a group of addressed pieces secured together as a unit. Pieces are first sorted to destinations and then assembled into groups for bundling based on quantity and other factors. The term bundle does not apply to unsecured groups of pieces (for example, pieces prepared in letter or flat trays and identified by separator cards or tic marks). ''Firm bundles'' are also groups of pieces that are secured together, but in a firm bundle all pieces are for delivery to the address shown on the top piece.

New Outside-County bundle rates are based on the level of sorting of both the bundle and the container (but not on the type of container). More finely presorted bundles within the same container level have higher rates to reflect more bundle handlings before they are opened. For example, for pieces sorted into a carrier route bundle, and then placed on an ADC pallet or sack, a mailer pays 10.4 cents per bundle. For pieces sorted into an ADC bundle and placed on an ADC pallet or sack, a mailer pays 3.8 cents per bundle. A lower piece rate for pieces in more finely presorted bundles offsets the higher bundle charge.

We propose to apply the bundle rates to all bundles containing Outside-County mail, except for mixed bundles of In-County and Outside-County pieces in carrier route and 5-digit/scheme bundles. This will avoid imposing the Outside-County pricing structure on bundles that will likely contain mostly In-County Periodicals.

Firm bundles are subject to both a piece charge (16.9 cents) and a bundle charge (2.7 cents to 7.9 cents, depending on the container level). Because of this new rate structure, mailers may no longer use firm bundles to satisfy a six-piece bundle requirement to a presort level.

We will charge bundle rates based on the actual number of bundles entered, so mailers must precisely document the number of bundles they produce. Unlike today, where there is no rate impact for a difference between the number of bundles implied by the presort requirements and the actual number of bundles created during production, under the new rates mailers must conscientiously modify software parameters and monitor adherence to physical breaks between bundles to ensure the number of bundles produced matches their documentation.

New Piece Rate Structure

Periodicals Outside-County prices include new piece rates based on shape, machinability, barcoding, and presort level. The presort level of the piece is based primarily on the bundle level of the piece, with one exception: The presort level of pieces loose in trays is based on the container level.

While the new structure eliminates the per-piece discounts for pieces on pallets, including the experimental copalletization discounts, the container and bundle charges are designed to encourage copalletization. The new structure also eliminates the per-piece discounts for destination area distribution center (DADC), destination sectional center facility (DSCF), and destination delivery unit (DDU) entry, but recognizes instead the associated cost savings in the new DADC, DSCF, and DDU rates for editorial pounds, as well as in the container rates.

We divide the piece rates into ''letter'' rates, ''machinable flats'' rates, and ''nonmachinable flats and parcel'' rates, with the exception of carrier route rates, which we divide only according to saturation, high density, and basic rates.

Letters

We provide letter rates for ''barcoded'' and ''nonbarcoded'' pieces. Periodicals letters must meet the standards for all letters in DMM 201. Letters mailed at the barcoded rates must include a barcode and must meet the additional standards for automation pieces in DMM 201.3.0. Automation Periodicals letters meet these dimensions:

- For height, no more than 6⅛ or less than 3½ inches high.
- For length, no more than 11½ or less than 5 inches long.
- For thickness, no more than 0.25 or less than:
  - 0.007 inch thick if no more than 4¼ inches high and 6 inches long; or
  - 0.009 inch thick if more than 4¼ inches high or 6 inches long, or both.
- The maximum weight for each piece is 3.5 ounces.

Periodicals letters mailed at the nonbarcoded rates meet the letter standards in DMM 201 but do not include a barcode. We assigned the machinable—nonbarcoded flats rates to these pieces. Nonbarcoded Periodicals letters meet these dimensions:

- For height, no more than 6⅛ or less than 3½ inches high.
- For length, no more than 11½ or less than 5 inches long.
- For thickness, no more than 0.25 or less than 0.007-inch thick.
- The maximum weight for each piece is 3.5 ounces.

Flats

We divide flats rates into categories for machinable and nonmachinable pieces, and then provide rates for barcoded and nonbarcoded pieces.

For flats prepared in 3-digit, ADC, and mixed ADC bundles and containers, we define ''machinable—barcoded'' flats as barcoded pieces that we can process on our primary flats-sorting equipment, the automated flat sorting machine (AFSM 100). These pieces must meet our standards for minimum flexibility, maximum deflection, and uniform thickness, and use automation-compatible polywrap (if polywrapped). Machinable—barcoded Periodicals flats meet these dimensions:

- Minimum height is 5 inches. Maximum height is 12 inches.
- Minimum length is 6 inches. Maximum length is 15 inches.
- For bound or folded pieces, the edge perpendicular to the bound or folded edge may not exceed 12 inches.
- Minimum thickness is 0.009 inch. Maximum thickness is 0.75 inch.
- The maximum weight for each piece is 20 ounces.

These pieces are defined in DMM 301.3.0 and match our standards for Standard Mail flat-size pieces mailed at automation rates, with a different weight limit.

''Machinable—nonbarcoded'' flats prepared in 3-digit, ADC, and mixed ADC bundles and containers meet the same dimensions noted above, but they do not include a barcode.

For flats prepared in 3-digit, ADC, and mixed ADC bundles and containers, we define ''nonmachinable—barcoded'' flats as barcoded pieces that we can process on the upgraded flat sorting machine (UFSM 1000) and potentially in the future flats sequencing environment; therefore, the requirements are slightly more restrictive than current UFSM 1000 requirements. These pieces must meet our standards for uniform thickness and use automation-compatible polywrap (if polywrapped), but they are not currently subject to our standards for minimum flexibility and maximum deflection. Nonmachinable—barcoded Periodicals flats meet these dimensions:

- Minimum height is 5 inches. Maximum height is 12 inches.
- Minimum length is 6 inches. Maximum length is 15 inches.
- Minimum thickness is 0.009 inch. Maximum thickness is 1.25 inches.
- The maximum weight for each piece is 4.4 pounds.

These pieces are defined in proposed DMM 707.26.0, and they are unique to Periodicals mail.

For pieces prepared in 5-digit bundles and containers, we define ''machinable—barcoded'' flats as those pieces prepared under 301.3.0 that we can process on the AFSM 100, and those pieces prepared under 707.26 that we can process on the UFSM 1000 and potentially on the future flats sequencing system. This definition will help us align Periodicals mail with the flats sequencing system, which will likely process a wider variety of flat-shaped mail than the AFSM 100 can process, and also recognizes that only some flats prepared in 5-digit bundles are sorted to carrier routes by the AFSM 100, while the rest are sorted manually. We are not proposing to change the standards for combining AFSM 100—compatible (defined in 301.3.0) and UFSM 1000—compatible (defined in 707.26.0) pieces in the same bundle.

''Machinable—nonbarcoded'' flats prepared in 5-digit bundles and containers meet the same dimensions noted above, but they do not include a barcode. The rate design includes a price for ''nonmachinable '' barcoded—flats prepared in 5-digit bundles, but mailers will not use this rate because we allow these UFSM 1000-compatible barcoded pieces to pay the lower, machinable—barcoded rates at the 5-digit level.

For all sort levels, we define ''nonmachinable—nonbarcoded'' flats as barcoded or nonbarcoded pieces that do not meet the standards in DMM 301.3.0 or in proposed 707.26.0.

Parcels

Periodicals parcels are pieces that cannot be processed on our primary flat-sorting equipment. This rate category includes rigid and parcel-like pieces, pieces in boxes, and tubes and rolls. Parcels exceed the weight or dimensions for machinable flats in DMM 707.26, but cannot weigh more than 70 pounds or measure more than 108 inches in length and girth combined (for parcels, length is the longest dimension and girth is the distance around the thickest part).

Parcel rates are the ''nonmachinable flats and parcels—nonbarcoded'' rates, whether or not the parcel includes a barcode.

New Pound Rate Structure

For advertising pounds, the new price structure retains zoned rates and per-pound incentives for DADC, DSCF, and DDU entry. For editorial pounds, postage from any entry point upstream from the DADC will continue to be unzoned, but there are new per-pound incentives for DADC, DSCF, and DDU entry. There are no pound-rate incentives for DBMC entry.

Documentation

We propose new documentation requirements in DMM 708.1.0, including a new bundle report, a new container report, and a new column on the USPS qualification report indicating which bundles and containers are subject to the Outside-County bundle and container rates. As we stated above, we will charge bundle rates based on the actual number of bundles entered, and the new documentation will help us verify that mailers have correctly prepared and paid for their mailings. We are not changing the documentation requirements for In-County mail.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C 410(a)), we invite your comments on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

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

200 Discount Letters and Cards

201 Physical Standards

* * * * *

3.0 Physical Standards for Automation Letters and Cards

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3.5 Weight Standards for Periodicals Automation Letters

Maximum weight limit for Periodicals automation letters (see 3.13.4 for pieces heavier than 3 ounces) is 3.5 ounces (0. 2188 pound).

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700 Special Standards

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705 Advanced Preparation and Special Postage Payment Systems

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8.0 Preparation for Pallets

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8.9 Bundles on Pallets

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8.9.3 Periodicals

Bundle size: Six-piece minimum (lower-volume bundles permitted under 707.22.0, Preparing Presorted Periodicals, and 707.23.0, Preparing Carrier Route Periodicals), 20-pound maximum, except:

[Revise item a to remove the option to count firm bundles as one piece for presort standards as follows:]

a. Firm bundles may contain as few as two copies of a publication. Mailers must not consolidate firm bundles with other bundles to the same 5-digit destination.

* * * * *

9.0 Preparing Cotrayed and Cosacked Bundles of Automation and Presorted Flats

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9.2 Periodicals

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9.2.5 Sack Preparation and Labeling

Nonbarcoded rate and barcoded rate bundles prepared under 9.2.2, 9.2.3, and 9.2.4 must be presorted together into sacks (cosacked) in the sequence listed below. Sacks must be labeled using the following information for Lines 1 and 2 and 707.21.0 for other sack label criteria. If, due to the physical size of the mailpieces, the barcoded rate pieces are considered flat-size under 301.3.0 and the nonbarcoded rate pieces are considered parcels under 401.1.6, the processing category shown on the sack label must show ''FLTS.''

[*Revise item a to require scheme sorting as follows:*]

a. 5-digit/scheme, required; scheme sort required only for pieces meeting the criteria in 301.3.0; 24-piece minimum, fewer pieces not permitted; labeling:

1. Line 1: For 5-digit scheme sacks, use L007, Column B. For 5-digit sacks, use city, state, and 5-digit ZIP Code destination on pieces.

2. Line 2: ''PER'' or ''NEWS'' as applicable and, for 5-digit scheme sacks, ''FLT 5D SCH BC/NBC;'' for 5-digit sacks, ''FLT 5D BC/NBC.''

* * * * *

10.0 Preparation for Merged Containerization of Bundles of Flats Using City State Product

10.1 Periodicals

10.1.1 Basic Standards

Carrier route bundles in a carrier route rate mailing may be placed in the same sack or on the same pallet as 5-digit bundles from a barcoded rate mailing and 5-digit bundles from a nonbarcoded rate mailing (including pieces cobundled under 11.0) under the following conditions:

* * * * *

[Revise item j to remove the option to count firm bundles toward the six-piece minimum for rate eligibility as follows:]

j. For mailings prepared in sacks, mailers may not combine firm bundles and 5-digit scheme bundles in 5-digit scheme (L007) bundles. Mailers may combine firm bundles with 5-digit scheme, 3-digit scheme, and other presort destination bundles in carrier route, 5-digit, 3-digit, SCF, ADC, and mixed ADC sacks.

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11.0 Preparing Cobundled Barcoded Rate and Nonbarcoded Rate Flats

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11.2 Periodicals

11.2.1 Basic Standards

[Revise the introductory text in 11.2.1 to require 5-digit scheme and 3-digit scheme sort and eliminate distinctions between AFSM 100 and UFSM 1000 flats as follows:]

Mailers may choose to cobundle (see 707.18.4ab) barcoded rate and nonbarcoded rate flat-size pieces as an option to the basic bundling requirements in 707.22.0 and 707.25.0. 5-digit scheme and 3-digit scheme bundles also must meet the additional standards in 707.18.4i and 707.18.4r. Mailing jobs (for flats meeting the criteria in 301.3.0) prepared using the 5-digit scheme and/or the 3-digit scheme bundle preparation must be sacked under 10.0 or palletized under 10.0, 12.0, or 13.0. All bundles are subject to the following conditions:

* * * * *

[Revise item g as follows:]

g. Within a bundle, all pieces must meet the requirements in 301.3.0 or all

pieces must meet the requirements in 707.26.0.

* * * * *

11.2.2 Bundle Preparation

[Revise the introductory text in 11.2.2 to specify that pieces meeting the criteria in 301.3.0 must be scheme-sorted as follows:]

Pieces meeting the criteria in 301.3.0 must be prepared in 5-digit scheme bundles for those 5-digit ZIP Codes identified in L007 and in 3-digit scheme bundles for those 3-digit ZIP Codes identified in L008. Preparation sequence, bundle size, and labeling:

* * * * *

[Revise item b to require 5-digit scheme bundles as follows:]

b. 5-digit scheme, required; * * *

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[Revise item d to require 3-digit scheme bundles as follows:]

d. 3-digit scheme, required; * * *

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15.0 Plant-Verified Drop Shipment

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15.2 Program Participation

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15.2.4 Periodicals

[Revise 15.2.4 to reflect the new rate structure for Periodicals mail as follows:]

Periodicals postage must be paid at the post office verifying the copies or as designated by the district. Postage is calculated from the destination USPS facility where deposited and accepted as mail (or from the facility where the Express Mail or Priority Mail Open and Distribute destinates). The publisher must ensure that sufficient funds are on deposit to pay for all shipments before their release. A publisher authorized under an alternative postage payment system must pay postage under the corresponding standards.

* * * * *

16.0 Express Mail Open and Distribute and Priority Mail Open and Distribute

[Revise heading of 16.1 as follows:]

16.1 Description

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16.1.4 Basis of Rate

[Revise 16.1.4 to specify that container rates do not apply to Express Mail and Priority Mail Open and Distribute sacks as follows:]

Mailers must pay Express Mail and Priority Mail postage based on the weight of the entire contents of the Express Mail or Priority Mail shipment. Do not include the tare weight of the external container. Do not apply Priority Mail dimensional weight pricing or Periodicals container rates to the external container.

* * * * *

707 Periodicals

1.0 Rates and Fees

1.1 Outside-County—Excluding Science-of-Agriculture

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[Renumber 1.1.3 through 1.1.5 as new 1.1.5 through 1.1.7. Insert new 1.1.3 and 1.1.4 as follows:]

1.1.3 Outside-County Bundle Rates

Rate for each bundle containing Outside-County Periodicals mail (see 2.1.7 for how to apply these rates):

[We provide all of the new rates for Periodicals mail at the end of this proposal.]

1.1.4 Outside-County Container Rates

Rate for each pallet, sack, tray, or other USPS-approved container containing Outside-County Periodicals mail (see 2.1.8 for how to apply these rates):

[We provide all of the new rates for Periodicals mail at the end of this proposal.]

* * * * *

1.2 Outside-County—Science-of-Agriculture

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[Renumber 1.2.3 as new 1.2.5. Insert new 1.2.3 and 1.2.4 as follows:]

1.2.3 Outside-County Bundle Rates

Rate for each bundle containing Outside-County Periodicals mail (see 2.1.7 for how to apply these rates):

[We provide all of the new rates for Periodicals mail at the end of this proposal.]

1.2.4 Outside-County Container Rates

Rate for each pallet, sack, tray, or other USPS-approved container containing Outside-County Periodicals mail (see 2.1.8 for how to apply these rates):

[We provide all of the new rates for Periodicals mail at the end of this proposal.]

* * * * *

2.0 Rate Application and Computation

2.1 Rate Application

2.1.1 Rate Elements

[Revise 2.1.1 to reflect the new Outside-County bundle and container rates and the new nonadvertising pound rate structure as follows:]

Postage for Periodicals mail includes a pound rate charge, a piece rate charge, bundle and container rate charges for Outside-County mail, and any discounts for which the mail qualifies under the corresponding standards.

[Renumber 2.1.2 through 2.1.5 as 2.1.3 through 2.1.6. Add new 2.1.2 to reflect the new piece rate structure as follows:]

2.1.2 Applying Piece Rate

Apply piece rates based on the following criteria:

a. The shape of the mailpiece (letter, flat, or parcel).

b. The characteristics of the mailpiece (machinable or nonmachinable). See 18.4ac and 18.4ad.

c. The use of a barcode.

d. The bundle level.

2.1.3 Applying Pound Rate

[Revise renumbered 2.1.3 to reflect the new nonadvertising rate structure and to clarify item b as follows:]

Apply pound rates to the weight of the pieces in the mailing as follows:

a. Outside-County and Science-of-Agriculture Outside-County pound rates are based on the weight of the advertising portion sent to each postal zone (as computed from the entry office) or destination entry zone, and the weight of the nonadvertising portion to a destination entry zone or a single rate to all other zones.

b. In-County pound rates consist of a DDU entry rate and an unzoned rate for eligible copies delivered within the county of publication.

[Revise the heading of renumbered 2.1.4 as follows:]

2.1.4 Computing Weight of Advertising and Nonadvertising Portions

[Revise renumbered 2.1.4 to reflect the new nonadvertising rate structure as follows:]

The pound rate charge is the sum of the charges for the computed weight of the advertising portion of copies to each destination entry and zone, plus the sum of the charges for the computed weight of the nonadvertising portion of copies to each destination entry and all other zones. The following standards apply:

a. The minimum pound rate charge for any zone to which copies are mailed is the 1-pound rate. For example, three 2-ounce copies for a zone are subject to the minimum 1-pound charge.

b. Authorized Nonprofit and Classroom publications with an advertising percentage that is 10% or

less are considered 100% nonadvertising. When computing the pound rates and the nonadvertising adjustment, use ''0'' as the advertising percentage. Authorized Nonprofit and Classroom publications claiming 0% advertising must pay the nonadvertising pound rate for the entire weight of all copies to all zones.

* * * * *

[Insert new 2.1.7 and 2.1.8 as follows:]

2.1.7 Applying Bundle Rates

For mailings prepared in bundles, mailers pay the bundle rate according to the presort level of the bundle and the presort level of the container that the bundle is placed in or on. The bundle rates are in addition to the container rates in 2.1.8. The following standards apply:

a. Bundles of fewer than six pieces under 25.1.5 (including single-piece bundles) must each pay the applicable bundle charge.

b. For bundles containing both In-County and Outside-County pieces, mailers do not pay the bundle rate for carrier route and 5-digit/scheme bundles.

2.1.8 Applying Container Rates

For mailings prepared in trays, sacks, pallets, and other USPS-approved containers, mailers pay the container rate according to the type of container, the presort level of the container, and where the mail is entered. The container rates are in addition to the bundle rates in 2.1.7. The following standards apply:

a. For mailings prepared in trays or sacks, mailers pay the container rate for each tray or sack based on container level and entry.

b. For mailings prepared on pallets under 705.8.0:

1. For bundles on pallets, mailers pay the container rate for each pallet.

2. For trays or sacks on pallets, mailers pay the container rate for each tray or sack, and not for the pallets. The container rate for each tray or sack is based on the container level and entry.

c. For containers with both In-County and Outside-County pieces, mailers do not pay the container rate for carrier route, 5-digit carrier routes, and 5-digit/scheme pallets, sacks, and trays.

2.2 Computing Postage

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[Renumber 2.2.7 as 2.2.8. Insert new 2.2.7 to compute the Outside-County bundle and container rates as follows:]

2.2.7 Outside-County Bundle and Container Charges

The Outside-County bundle charge is the sum of the number of bundles for each bundle level and container level in the mailing subject to the Outside-County bundle rates (see 1.1.3 and 1.2.3), multiplied by the applicable bundle rates. The Outside-County container charge is the sum of the number of containers for each container type, container level, and entry level in the mailing subject to the Outside-County container rates (see 1.1.4 and 1.2.4), multiplied by the applicable container rates. Mailers who prepare Periodicals publications as a combined mailing by merging copies or bundles of copies under 27.0 may pay the Outside-County bundle and container charges in one of the following ways:

a. On one publisher's Form 3541.

b. On one consolidated Form 3541. Under this option, the consolidator must complete the appropriate sections of the form and pay the charges from the consolidator's own advance deposit account.

c. Apportioned on each publisher's Form 3541. The following standards apply:

1. The qualification report must be submitted electronically via Mail.dat. See 708.1.0 for additional documentation requirements.

2. The total charges on all Form 3541s in a combined mailing must equal the total charges for all bundles and containers subject to the Outside-County container rates presented for mailing.

3. Apportion the bundle charge for each title or edition by determining how many of each type of bundle that title or edition is in. Next calculate the percentage of copies in each of those bundles and convert to four decimal places, rounding if necessary (for example, convert 20.221% to .2022). Add the decimal values for each type of bundle in the mailing and multiply the total by the applicable bundle rate in 1.1.3 and 1.2.3. Add the bundle charges to determine the total for each title or edition.

4. Apportion the container charge for each title or edition by determining how many of each type of container that title or edition is in. Next calculate the percentage of copies in each of those containers and convert to four decimal places, rounding if necessary (for example, convert 20.221% to .2022). Add the decimal values for each type of container in the mailing and multiply the total by the applicable container rate in 1.1.4 and 1.2.4. Add the container charges to determine the total for each title or edition.

2.2.8 Total Postage

[Revise renumbered 2.2.8 to reflect the new Outside-County container rates as follows:]

Total Outside-County postage is the sum of the per pound and per piece charges, the bundle charges, the container charges, and any Ride-Along and Repositionable Notes charges; minus all discounts; rounded off to the nearest whole cent. Total In-County postage is the sum of the per pound and per piece charges, and any Ride-Along and Repositionable Notes charges, less all discounts, rounded off to the nearest whole cent.

3.0 Physical Characteristics and Content Eligibility

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3.5 Mailpiece Construction

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3.5.2 Size and Weight

[Revise 3.5.2 as follows:]

Periodicals mail may not weigh more than 70 pounds or measure more than 108 inches in length and girth combined. Additional size and weight limits apply to letters and machinable and nonmachinable pieces. Requester publications must contain at least 24 pages per issue.

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11.0 Basic Rate Eligibility

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11.4 Discounts

The following discounts are available:

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[Delete item c to eliminate the pallet discounts.]

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15.0 Ride-Along Rate Eligibility

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15.3 Physical Characteristics

The host Periodicals piece and the Ride-Along piece must meet the following physical characteristics:

* * * * *

[Revise item c as follows:]

c. A Periodicals piece with a Ride-Along must maintain the same processing category as before the addition of the Ride-Along. For example, if, due to the inclusion of a Ride-Along piece, a barcoded letter-size host piece can no longer be processed as a barcoded letter, then that piece must pay the Periodicals nonbarcoded letter rate for the host piece plus the Ride-Along rate or the Standard Mail rate for the attachment or enclosure.

* * * * *

16.0 Postage Payment

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16.4 Payment Method

[Revise 16.4 to clarify payment options in a combined mailing as follows:]

Mailers must pay Periodicals postage by advance deposit account at the original or additional entry post office, except under procedures in 16.5 for Centralized Postage Payment or in 705.15.2.4. Mailers may not pay postage for Periodicals using permit imprint, meter stamp, postage stamp, or precanceled stamps. Mailers must pay postage for First-Class Mail and Standard Mail enclosures under 703.9.8 through 703.9.12 and 705.16.1. Mailers who prepare Periodicals publications as a combined mailing by merging copies or bundles of copies under 27.0 may pay the Outside-County bundle and container charges on one mailer's Form 3541, on one consolidated Form 3541, or on each mailer's Form 3541 (see 2.2.7).

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17.0 Documentation

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17.7 Additional Standards

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[Insert new 17.7.4 as follows:]

17.7.4 Outside-County Bundle and Container Rate Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing, supported by standardized documentation meeting the basic standards in 708.1.0. The documentation must show how many bundles are used and how many trays, sacks, and pallets are required for the rates and discounts claimed.

18.0 General Information for Mail Preparation

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18.3 Presort Terms

Terms used for presort levels are defined as follows:

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[Revise items e and p for scheme sorting as follows:]

e. 5-digit scheme (bundles and sacks) for flats prepared according to 301.3.0: the ZIP Code in the delivery address on all pieces is one of the 5-digit ZIP Codes processed by the USPS as a single scheme, as shown in L007.

* * * * *

p. *3-digit scheme bundles for flats prepared according to 301.3.0:* the ZIP Code in the delivery address on all pieces is one of the 3-digit ZIP Codes processed by the USPS as a single scheme, as shown in L008.

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18.4 Mail Preparation Terms

For purposes of preparing mail:

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[Revise item b to require trays to be at least 85% full as follows:]

b. A *full letter tray* is one in which faced, upright pieces fill the length of the tray between 85% and 100% full.

* * * * *

[Revise items i and r for scheme sorting as follows:]

i. A *5-digit scheme sort for flats prepared according to 301.3.0* yields 5-digit scheme bundles for those 5-digit ZIP Codes identified in L007. Mailers must presort according to L007. Pieces prepared in scheme bundles must meet the automation flat criteria in 301.3.0. Mailpieces must be labeled using an optional endorsement line under 708.7.0. Periodicals firm bundles must not be combined within 5-digit scheme bundles.

* * * * *

r. A *3-digit scheme sort for flats prepared according to 301.3.0* yields 3-digit scheme bundles for those 3-digit ZIP Codes identified in L008. The 3-digit scheme sort is optional, except under 705.12.0 and 705.13.0. For 705.12.0 and 705.13.0, mailers must presort according to L008. Pieces prepared in scheme bundles must meet the automation flat criteria in 301.3.0. Mailers must label mailpieces using an OEL under 708.7.0. Periodicals firm bundles must not be combined within 3-digit scheme bundles.

* * * * *

[Insert new items ac and ad to define ''machinability'' as follows:]

ac. *Machinable flats* are:

1. Flat-size pieces meeting the standards in 301.3.0 that are sorted into 5-digit, 3-digit, ADC, and mixed ADC bundles. These pieces are compatible with processing on the AFSM 100, or

2. Flat-size pieces meeting the standards in 26.0 that are sorted into 5-digit bundles.

ad. *Nonmachinable flats* are flat-size pieces meeting the standards in 26.0, with the exception of 5-digit pieces under 18.4ac (item 2) above. Nonmachinable flats are not compatible with processing on the AFSM 100.

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22.0 Preparing Nonbarcoded Periodicals

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22.2 Bundle Preparation

[Revise the introductory text of 22.2 to specify that pieces must meet the criteria in 301.3.0 for scheme sorting as follows:]

Mailings consisting entirely of nonbarcoded pieces meeting the criteria in 301.3.0 may be prepared in 5-digit scheme bundles for those 5-digit ZIP Codes identified in L007 and in 3-digit scheme bundles for those 3-digit ZIP Codes identified in L008. A bundle must be prepared when the quantity of addressed pieces for a required presort level reaches the minimum bundle size (except under 22.7). Smaller volumes are not permitted except in mixed ADC bundles and 5-digit/scheme and 3-digit/scheme bundles prepared under 22.4. Bundling is also subject to 19.0, Bundles. Preparation sequence, bundle size, and labeling:

* * * * *

[Renumber items b through f as new items c through g. Insert new item b as follows:]

b. 5-digit scheme (optional); six-piece minimum; OEL.

* * * * *

[Renumber new items d through g as items e through h. Insert new item d as follows:]

d. 3-digit scheme (optional); six-piece minimum; OEL.

* * * * *

[Revise 22.3 to remove the option to count firm bundles toward the six-piece bundle requirement for a presort destination as follows:]

22.3 Firm Bundles

A ''firm bundle'' is defined as two or more copies for the same address placed in one bundle. If each copy has a delivery address, each may be claimed as a separate piece for presort and on the postage statement, or the firm bundle may be claimed as one addressed piece. A firm bundle claimed as one addressed piece must be physically separate from other bundles and may not be used to satisfy a six-piece bundle requirement to a presort destination.

* * * * *

22.6 Sack Preparation—Flat-Size Pieces and Parcels

For mailing jobs that also contain a barcoded rate mailing under 301.3.0, see 22.1.2 and 705.9.0 or 705.10.0. For mailing jobs that do not contain barcoded rate pieces, preparation sequence, sack size, and labeling:

[Renumber items a through g as new items b through h. Insert new item a for scheme sorting as follows:]

a. 5-digit scheme; optional; for pieces meeting the standards in 301.3.0; 24-piece minimum, fewer pieces not permitted.

1. Line 1: L007, Column B.

2. Line 2: ''PER'' or NEWS'' as applicable, followed by ''FLTS 5D SCH NON BC.''

* * * * *

22.7 Optional Tray Preparation—Flat-Size Nonbarcoded Pieces

[Revise the introductory text in 22.7 to specify that pieces must meet the criteria in 301.3.0 and to add the container charge for trays as follows:]

As an option, mailers may place in flat-size trays the pieces prepared under 301.3.0 that would normally be placed in ADC, origin mixed ADC, or mixed ADC sacks. The trays are subject to the container charge in 1.1.4 or 1.2.4. Pieces must not be secured in bundles and are not subject to a bundle charge. Mailers must group together pieces for each 5-digit scheme, 5-digit, 3-digit scheme, 3-digit, and ADC destination as follows:

* * * * *

23.0 Preparing Carrier Route Periodicals

* * * * *

23.4 Preparation—Flat-Size Pieces and Irregular Parcels

* * * * *

23.4.2 Exception to Sacking

[Revise the introductory text in 23.4.2 to specify that mailers do not pay the container charge as follows:]

Sacking is not required for bundles prepared for and entered at a DDU when the mailer unloads bundles under 29.4.6. Mail presented under this exception is not subject to the container charge. Mailers must prepare unsacked bundles as follows:

* * * * *

25.0 Preparing Flat-Size Periodicals With Barcodes

25.1 Basic Standards

25.1.1 General

[Revise 25.1.1 to reference 301.3.0 as follows:]

Each piece must meet the physical standards in 301.3.0 or in 26.0. Bundle, sack, and tray preparation are subject to 18.0 through 21.0 and this section. Trays and sacks must bear the appropriate barcoded container labels under 708.6.0.

* * * * *

25.1.5 Bundle Preparation

[Revise 25.1.5 for clarity and to update the cross-references as follows:]

All pieces must be prepared in bundles (except under 25.6) and meet the following requirements:

a. Pieces that meet the standards in 301.3.0 must be prepared in separate bundles from pieces that meet the standards in 26.0.

* * * * *

c. Each bundle of pieces prepared under 301.3.0 and each bundle of pieces prepared under 26.0 must separately meet the bundle minimums in 25.4.

d. Bundles may contain fewer than six pieces when the mailpieces are too thick or too heavy to create a six-piece bundle. Piece rate eligibility is not affected if the total number of pieces bundled for a presort destination meets or exceeds the minimum for rate eligibility under 14.0.

25.1.6 Scheme Bundle Preparation

[Revise 25.1.6 as follows:]

Pieces must be prepared in 5-digit scheme bundles for those 5-digit ZIP Codes identified in L007 and in 3-digit scheme bundles for those 3-digit ZIP Codes identified in L008. These bundles must meet the additional standards in 18.4i or 18.4r.

25.1.7 Sack Preparation

[Revise 25.1.7 as follows:]

Mailers may combine bundles of pieces prepared under 301.3.0 and bundles of pieces prepared under 26.0 in the same sack, with the exception of 5-digit scheme sacks, which may contain only pieces prepared under 301.3.0.

25.1.8 Exception—Barcoded and Nonbarcoded Flats on Pallets

[Revise 25.1.8 as follows:]

When the physical dimensions of the mailpieces in a Periodicals mailing meet the definition of both a letter-size piece and a machinable barcoded flat-size piece, the entire job may be prepared, merged, and palletized under 705.9.0 through 705.13.0. The following standards apply:

a. The nonbarcoded portion is paid at the nonbarcoded rates.

b. Mailing jobs prepared entirely in sacks and claiming this exception must be cobundled under 705.11.0.

c. As an alternative to 705.9.0 through 705.13.0, if a portion of the job is prepared as palletized barcoded flats, the nonbarcoded portion may be prepared as palletized flats and paid at nonbarcoded machinable and carrier route rates. The nonbarcoded rate pieces that cannot be placed on ADC or finer pallets may be prepared as flats in sacks and paid at the nonbarcoded rates.

* * * * *

[Renumber 25.2 through 25.4 as new 25.3 through 25.5. Insert new 25.2 as follows:]

25.2 Physical Standards

Each flat-size piece must be rectangular and must meet the standards in 301.3.0 or, for 5-digit pieces, in 26.0.

25.3 Bundling and Labeling

Preparation sequence, bundle size, and labeling:

[Revise items a and c to require scheme bundling as follows:]

a. 5-digit scheme (required); six-piece minimum (fewer pieces permitted under 25.1.9); OEL required.

* * * * *

c. 3-digit scheme (required); six-piece minimum (fewer pieces permitted under 25.1.9); OEL required.

* * * * *

25.4 Sacking and Labeling

For mailing jobs that also contain a nonbarcoded rate mailing, see 25.1.10 and 705.9.0. Other mailing jobs are prepared, sacked, and labeled as follows:

[Revise item a as follows:]

a. 5-digit scheme, required at 24 pieces, fewer pieces not permitted; may contain 5-digit scheme bundles only; labeling:

* * * * *

25.6 Optional Tray Preparation—Flat-Size Barcoded Pieces

[Revise the introductory text in renumbered 25.6 to specify that pieces must meet the criteria in 301.3.0 and to add the container charge for trays as follows:]

As an option, mailers may place in trays pieces prepared under 301.3.0 that would normally be placed in ADC, origin mixed ADC, or mixed ADC sacks. The trays are subject to the container charge in 1.1.4 or 1.2.4. Pieces must not be secured in bundles. Mailers must group together pieces for each 5-digit scheme, 5-digit, 3-digit scheme, 3-digit, and ADC destination as follows:

* * * * *

[Renumber 26.0 through 29.0 as 27.0 through 30.0. Insert new 26.0 as follows:]

26.0 Alternative Physical Criteria for Flat-Size Periodicals

26.1 General

Mailers may prepare barcoded flat-size pieces according to 25.0 above. These pieces may not be combined in the same bundle with pieces prepared under 301.3.0. Determine length and height according to 301.1.2.

26.2 Weight and Size

The maximum weight for each piece is 4.4 pounds. The following minimum and maximum dimensions apply:

a. Minimum height is 5 inches. Maximum height is 12 inches.

b. Minimum length is 6 inches. Maximum length is 15 inches.

c. Minimum thickness is 0.009 inch. Maximum thickness is 1.25 inches.

26.3 Address Placement on Folded Pieces

Mailers must design folded pieces so that the address is in view when the final folded edge is to the right and any intermediate bound or folded edge is at the bottom of the piece. Unbound flat-size pieces must be at least double-folded.

26.4 Flexibility and Deflection

Pieces prepared under 26.0 are not subject to the minimum standards for flexibility in 301.1.4 or the maximum standards for deflection in 301.3.2.4.

26.5 Additional Criteria

Pieces must meet the standards for polywrap coverings in 301.3.3; protrusions and staples in 301.3.4; tabs, wafer seals, tape, and glue in 301.3.5; and uniform thickness and exterior format in 301.3.6.

27.0 Combining Multiple Editions or Publications

[Reorganize and revise renumbered 27.0 to add the definition and standards for copalletized mailings. The experimental copalletization drop-ship classifications in 709.3.0 and 709.4.0 expire, and all mailers may copalletize as follows:]

27.1 Description

Mailers may prepare Periodicals publications as a combined mailing by merging copies or bundles of copies to achieve the finest presort level possible or to reduce the total Outside-County postage. Mailers may use the following methods:

a. Mailers may merge and sort together (''comail'') individually addressed copies of different editions of a Periodicals publication (one title) or individually addressed copies of different Periodicals publications (more than one title) to obtain finer presort levels.

b. Mailers may place two or more copies of different Periodicals publications (two or more titles), and/or multiple editions of the same publication in the same mailing wrapper or firm bundle and present it as one addressed piece to a single addressee to reduce the per piece charge.

c. Mailers may copalletize separately presorted bundles of different Periodicals titles and editions to achieve minimum pallet weights. Mailers do not have to achieve the finest pallet presort level possible.

27.2 Authorization

27.2.1 Basic Standards

Each publication in a combined mailing must be authorized (or pending authorization) to mail at Periodicals rates. Each mailer must be authorized to comail or copalletize mailings under 27.1a and 27.1c by Business Mailer Support (see 608.8.1 for address). Requests for authorization must show:

a. The mailer's name and address.

b. The mailing office.

c. Procedures and quality control measures for the combined mailing.

d. The expected date of the first mailing.

e. A sample of the standardized documentation.

27.2.2 Denial

If the application is denied, the mailer or consolidator may reapply at a later date, or submit additional information needed to support the request.

27.2.3 Termination

An authorization may not exceed 2 years. Business Mailer Support may take action to terminate an authorization at any time, by written notice, if the mailer does not meet the standards.

27.3 Minimum Volume

The following minimum volume standards apply:

a. For combined mailings prepared under 27.1a, more than one Periodicals publication, or edition of a publication, are combined to meet the required minimum volume per bundle, sack, or tray for the rate claimed.

b. For combined mailings prepared under 27.1b, the minimum volume requirements in 201.3.0 (for letters) or in 22.0, 23.0, or 25.0 apply for the rate claimed.

c. For copalletized mailings prepared under 27.1c, the minimum volume requirements for pallets in 705.8.5.3 apply for the rate claimed.

27.4 Labeling

Mailers must label all containers in a combined mailing as either ''NEWS'' (see 21.1.3) or ''PER'' as follows:

a. If at least 51% of the total number of copies in the combined mailing can qualify for ''NEWS'' treatment then all containers in the mailing are labeled ''NEWS,'' unless the mailer chooses to use ''PER.''

b. If less than 51% of the total number of copies in a combined mailing can qualify for ''NEWS'' treatment then all containers in the mailing are labeled ''PER.''

27.5 Documentation

Each mailing must be accompanied by documentation meeting the standards in 17.0, as well as any additional mailing information requested by the USPS to support the postage claimed (such as advertising percentage and weight per copy). The following additional standards apply:

a. Presort documentation required under 708.1.0 must show the total number of addressed pieces and total number of copies for each publication and each edition in the combined mailing claimed at the carrier route, 5-digit, 3-digit, and ADC/mixed ADC rates. The mailer also must provide a list, by 3-digit ZIP Code prefix, of the number of addressed pieces for each publication and each edition claimed at any destination entry discount.

b. Copalletized mailing documentation must consolidate and identify each title and version (or edition) in the mailing. Mailers may use codes in the summary heading to represent each title and version (or edition) presorted together on pallets. The documentation must include presort and pallet reports showing by title and version (or edition) how the bundles are presorted and where they will be entered.

27.6 Postage Statements

Mailers must prepare postage statements for a combined mailing as follows:

a. Copy weight and advertising percentage determine whether separate postage statements are required for editions of the same publication:

1. If the copy weight and advertising percentage for all editions of a publication are the same, mailers may report all the editions on the same postage statement or each edition on a separate postage statement.

2. If the copy weight or the advertising percentage is different for each edition of a publication, mailers must report each edition on a separate postage statement.

b. For a combined mailing prepared under 27.1a, mailers must prepare a separate postage statement that claims all applicable per piece, per pound charges, and bundle and container charges (if apportioned) for each publication or edition. The mailer must annotate on, or attach to, each postage statement, the title and issue date of each publication or edition and indicate

that the pieces were prepared as part of a combined mailing under 27.1a.

c. For mailings under 27.1b, mailers must prepare a separate postage statement claiming the applicable per pound charges for each publication or edition in the combined mailing except as provided in 27.2.5a. The mailer must annotate on, or attach to, each postage statement, the title and issue date of each publication or edition and indicate that the copies were prepared as part of a combined mailing under 27.1b. The per piece charges must be claimed as follows:

1. If all copies in the combined mailing are eligible for the Classroom or Nonprofit discount, or if all copies are not eligible for the Classroom or Nonprofit discount, mailers may claim the per piece charges only on the postage statement for the publication that contains the highest amount of advertising.

2. If a portion of the copies in the combined mailing are eligible for the Classroom or Nonprofit discount and a portion are not eligible, mailers may claim the per piece charges only on the postage statement for the publication that contains the highest amount of advertising and is not eligible for the Classroom or Nonprofit discount. The Classroom or Nonprofit per piece discount must not be claimed.

d. For copalletized mailings under 27.1c, mailers must prepare a separate postage statement for each publication in the mailing. One consolidated postage statement and a register of mailings for each publication must accompany mailings consisting of different editions or versions of the same publication.

27.7 Postage Payment

Each mailing must meet the postage payment standards in 16.0. For copalletized mailings under 27.1c, mailers must pay postage at the post office serving the facility where consolidation takes place, except that postage for publications authorized under the Centralized Postage Payment (CPP) system may be paid to the Pricing and Classification Service Center (see 608.8.4.1 for address).

27.8 Deposit of Mail

Each publication in a combined mailing must be authorized for original entry or additional entry at the post office where the mailing is entered. For copalletized mailings under 27.1c, mailers must enter each mailing at the post office serving the facility where consolidation takes place.

* * * * *

29.0 Destination Entry Rate Eligibility

29.1 Basic Standards

29.1.1 Rate Application

[Revise renumbered 29.1.1 to eliminate the pallet discounts and add the new container and bundle rates as follows:]

Outside-County addressed pieces may qualify for destination bulk mail center (DBMC), destination area distribution center (DADC), or destination sectional center facility (DSCF) rates under 29.2 or 29.3. Carrier route rate addressed pieces may qualify for destination delivery unit (DDU) rates under 29.5. Outside-County pieces are subject to the Outside-County bundle rates in 1.1.3 or 1.2.3 and the Outside-County container rates in 1.1.4 or 1.2.4. For all destination entry rate pieces:

a. An individual bundle, tray, sack, or pallet may contain pieces claimed at different destination entry pound rates.

b. In-County carrier route rate addressed pieces may qualify for the DDU discount under 29.5.

c. The advertising and nonadvertising portions may be eligible for DADC, DSCF, or DDU pound rates based on the entry facility and the address on the piece.

* * * * *

[Further renumber 29.2 through 29.4 as 29.3 through 29.5. Insert new 29.2 as follows:]

29.2 Destination Bulk Mail Center

29.2.1 Definition

For this standard, destination bulk mail center (DBMC) includes the facilities in Exhibit 346.3.1, or a USPS-designated facility.

29.2.2 Eligibility

Addressed pieces may be entered at DBMCs as follows:

a. Pieces must be prepared in bundles on pallets or in sacks or trays on pallets (except mixed ADC pallets) under 705.8.0.

b. Pieces must be addressed for delivery to one of the 3-digit ZIP Codes served by the BMC facility where deposited.

* * * * *

29.3 Destination Area Distribution Center

* * * * *

29.3.3 Rates

[Revise renumbered 29.3.3 to reflect the new nonadvertising rate structure as follows:]

DADC rates include a nonadvertising pound rate and, if applicable, an advertising pound rate.

29.4 Destination Sectional Center Facility

* * * * *

29.4.3 Rates

[Revise renumbered 29.4.3 to reflect the new nonadvertising rate structure as follows:]

DSCF rates include a nonadvertising pound rate and, if applicable, an advertising pound rate.

29.5 Destination Delivery Unit

* * * * *

29.5.3 Rates

[Revise renumbered 29.5.3 to reflect the new nonadvertising rate structure as follows:]

DDU rates for Outside-County include a nonadvertising pound rate and, if applicable, an advertising pound rate. DDU rates for In-County consist of a pound charge and a per piece discount off the addressed piece rate.

* * * * *

30.0 Additional Entry

* * * * *

30.2 Authorization

30.2.1 Filing

[Add new last sentence to renumbered 30.2.1 as follows:]

The publisher is responsible for timely filing of all forms and supporting documentation to establish, modify, or cancel an additional entry. Under the standards for combining mailings on pallets in 27.0, consolidators may apply for additional entry authorizations, on behalf of publishers, at the post office serving the consolidator's facility.

* * * * *

708 Technical Specifications

1.0 Standardized Documentation for First-Class Mail, Periodicals, Standard Mail, and Flat-Size Bound Printed Matter

* * * * *

1.2 Format and Content

For First-Class Mail, Periodicals, Standard Mail, and flat-size Bound Printed Matter, standardized documentation includes:

* * * * *

c. For mail in trays or sacks, the body of the listing reporting these required elements:

* * * * *

[Delete item c8, renumber item c9 as new item c8, and add new item c9 as follows:]

9. For Periodicals mailings that contain both In-County and Outside-

County pieces, include a separate ''Container Charge'' and ''Bundle Charge'' column. The body of the listing must indicate which trays, sacks and bundles are subject to the container or bundle charges and a running total.

d. For bundles on pallets, the body of the listing reporting these required elements:

* * * * *

[Renumber item d7 as item d8. Add new item d7 as follows:]

7. For Periodicals mailings that contain both In-County and Outside-County pieces, include a separate ''Container Charge'' and ''Bundle Charge'' column. The body of the listing must indicate which pallets and bundles are subject to the container or bundle charges and a running total.

[Revise item e as follows:]

e. At the end of the documentation, a summary report of the total number of pieces mailed at each postage rate for each mailing reported on the listing by postage payment method (and by entry point for drop shipment mailings) and the total number of pieces in each mailing. This information must correspond to the information reported on the postage statement(s) for the pieces reported. For Periodicals mailings, documentation also must provide:

1. A summary of the total number of each type of bundle in the mailing and the total bundle charge paid. Report only bundles subject to the Outside-County bundle rate under 1.1.3 or 1.2.3.

2. A summary of the total number of each type of container in the mailing and the total container charge paid. Report only trays, sacks, and pallets subject to the Outside-County container rates under 1.1.4 or 1.2.4.

3. For combined mailings, a summary by individual mailer of the number of each type of bundle and container in the mailing and the bundle and container rate paid. Report only bundles, trays, sacks, and pallets subject to the Outside-County bundle and container rates under 1.1.3 or 1.2.3 and 1.1.4 or 1.2.4.

4. A summary of the total number of copies for each zone, including In-County, delivery unit, SCF, and ADC rates. A separate summary report is not required if a PAVE-certified postage statement facsimile generated by the presort software used to prepare the standardized documentation is presented for each mailing.

5. Additional data if necessary to calculate the amount of postage for the mailing (or additional postage due, or postage to be refunded) if nonidentical-weight pieces that do not bear the correct postage at the rate for which they qualify are included in the mailing, or if different rates of postage are affixed to pieces in the mailing.

* * * * *

[Insert new 1.8 as follows:]

1.8 Bundle and Container Reports for Periodicals Mail

A publisher must present documentation to support the actual number of bundles and containers of each edition of an issue as explained in 1.8.1 and 1.8.2 below.

1.8.1 Bundle Report

The bundle report must contain, at a minimum, the following elements:

a. Container identification number.

b. Container type.

c. Container presort level.

d. Bundle ZIP Code.

e. Bundle level.

f. Rate category.

g. Number of copies by version in the bundle.

h. An indicator showing which bundles are subject to the bundle charge.

1.8.2 Container Report

The container report must contain, at a minimum, the following elements:

a. Container identification number.

b. Container type.

c. Container level.

d. Container entry level (origin, DDU, DSCF, DADC, or DBMC).

e. An indicator showing which containers are subject to the container charge.

* * * * *

709 Experimental Classifications and Rates

[Delete 3.0, Outside-County Periodicals Copalletization Drop-Ship Classification; and 4.0, Outside-County Periodicals Copalletization Drop-Ship Discounts for High-Editorial, Heavy-Weight, Small-Circulation Publications. *Renumber remaining sections 5.0 and 6.0 as new 3.0 and 4.0. The experimental copalletization discounts expire and are replaced by the new rate structure for Periodicals mail in 707.]*

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

BILLING CODE 7710–12–P

Periodicals (Rates Effective July 15, 2007)

Outside-County

Pound Rates—per pound or fraction

Advertising Portion			Nonadvertising Portion		
Zone	Regular Rate	Science-of-Agriculture	Zone	Regular Rate	Science-of-Agriculture
DDU	$0.160	$0.120	DDU	$0.133	$0.133
DSCF	0.209	0.157	DSCF	0.174	0.174
DADC	0.219	0.164	DADC	0.182	0.182
1 & 2	0.239	0.179	Other	0.199	0.199
3	0.257	0.257			
4	0.303	0.303			
5	0.372	0.372			
6	0.446	0.446			
7	0.534	0.534			
8	0.610	0.610			

Preferred Rate Discount: Authorized nonprofit and classroom mailers receive a discount of 5% off the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under DMM 707.7.

Outside-County and In-County Ride-Along Rate—per Ride-Along piece: $0.155

Piece Rates—per addressed piece

	Letters		Machinable Flats		Nonmachinable Flats & Parcels	
Bundle Level	Barcoded	Nonbarcoded	Barcoded	Nonbarcoded	Barcoded	Nonbarcoded
5-Digit	$0.211	$0.276	$0.268	$0.276	$0.285	$0.289
3-Digit/SCF	0.275	0.348	0.331	0.348	0.362	0.373
ADC	0.289	0.370	0.350	0.370	0.412	0.432
MXD ADC	0.327	0.431	0.404	0.431	0.504	0.534

All Carrier Route pieces: Firm—$0.169; Saturation—$0.131; High Density—$0.149; Basic—$0.169
Nonadvertising adjustment factor for each 1% of nonadvertising content: $0.00091

Bundle Rates—per bundle

	Container Level			
Bundle Level	CR/5-Digit	3-Digit/SCF	ADC	MXD ADC
Firm	$0.027	$0.045	$0.048	$0.079
Carrier Route	0.039	0.095	0.104	—
5-Digit	0.008	0.084	0.095	0.161
3-Digit/SCF	—	0.039	0.063	0.134
ADC	—	—	0.038	0.129
MXD ADC	—	—	—	0.100

Container Rates—per pallet, sack, or tray

	Pallet			Tray/Sack			
Entry	5-Digit	3-Digit/SCF	ADC	CR/5-Digit	3-Digit/SCF	ADC	MXD ADC
Destination Delivery Unit	$1.20	—	—	$0.70	—	—	—
Destination SCF	8.00	$6.70	—	0.90	$0.60	—	—
Destination ADC	15.50	12.20	$8.90	1.30	1.00	$0.60	—
Destination BMC	17.50	14.40	13.00	1.50	1.20	1.10	—
Origin	26.95	22.98	18.61	2.24	1.90	1.80	$0.42

In-County

Pound Rates—per pound or fraction

Zone	Rate
Destination Delivery Unit	$0.132
All other zones	0.171

Piece Rates—per addressed piece

	Automation		Nonautomation
Presort Level	Letters	Flats	Letters, Flats, & Parcels
Carrier Route			
Saturation	—	—	$0.028
High Density	—	—	0.041
Basic	—	—	0.056
5-Digit	$0.044	$0.093	0.098
3-Digit	0.046	0.099	0.110
Basic	0.055	0.107	0.122

Destination delivery unit (DDU) discount for each addressed piece: $0.008

[FR Doc. 07–1796 Filed 4–10–07; 8:45 am]
BILLING CODE 7710–12–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152, 156, 167, 168, 169, 172, and 174

[EPA–HQ–OPP–2006–1003; FRL–8119–5]

Plant-Incorporated Protectants; Potential Revisions to Current Production Regulations; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM); Announcement of Public Meetings.

SUMMARY: EPA is announcing two public meetings to be held during the comment period of the ANPRM, entitled *Plant-Incorporated Protectants; Potential Revisions to Current Production Regulations*. The ANPRM announces EPA's intention to develop and propose amendments to existing regulations affecting producers of plant-incorporated protectants (PIPs), a type of pesticide. The Agency is considering amendments to the existing regulations, which were written primarily for producers of ''traditional'' pesticides, because PIPs are unlike other types of pesticides currently regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Given that PIPs are part of a living organism, they can be replicated and potentially produced anywhere a plant containing the PIP grows. The purpose of the public meetings is to further communicate the regulatory issues described in the ANPRM, and to provide an opportunity for a public dialogue and exchange of information on these and related issues. The meetings will be organized around the questions and issue posed in the ANPRM.

DATES: *Meetings*: The Chicago, IL meeting will be held on May 2, 2007, from noon to 4:30 p.m., CDT. The Arlington, VA meeting will be held on May 22, 2007, from noon to 4:30 p.m., EDT.

Participation: To make oral comment and/or a presentation at these meetings, submit a request to the person listed under **FOR FURTHER INFORMATION CONTACT** no later than 10 days before the meeting that you plan to attend. See also Unit III.A. of the **SUPPLEMENTARY INFORMATION**.

Special accommodations: For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meetings will be held in Rm. 331, EPA Region 5, Ralph Metcalfe Federal Bldg., 77 West Jackson Blvd., Chicago, IL 60604 and in Rm. S–4370, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Stephen J. Howie, Office of Science Coordination and Policy, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–4146; fax number: (202) 564–8502; e-mail address: *howie.stephen@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 you if you manufacture, import, process, or use PIPs. In order to identify potentially impacted industries the analysis relies on North American Industrial Classification System (NAICS) codes. Potentially affected entities may include, but are not limited to:

- Pesticide and Other Agricultural Chemical Manufacturing (NAICS code 325320). This industry comprises establishments that are producing PIPs intended for distribution and sale as pesticides.
- Crop Production (NAICS code 111). These are establishments such as farms, orchards, groves, greenhouses, and nurseries, primarily engaged in growing crops, plants, vines, or trees and their seeds.
- Colleges, Universities, and Professional Schools (NAICS code 611310). This industry comprises establishments primarily engaged in furnishing academic courses and granting degrees at baccalaureate or graduate levels. Furthermore, they may comprise establishments where research on PIPs occurs and where PIPs may be grown.
- Research and Development in the Physical, Engineering, and Life Sciences (NAICS code 54171). This industry comprises establishments primarily engaged in conducting research and experimental development in the physical, engineering, or life sciences, such as agriculture, environmental, biology, botany, biotechnology, forests, and other allied subjects.

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for the ANPRM under docket identification (ID) number EPA–HQ–OPP–2006–1003. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document or the ANPRM electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

The ANPRM, entitled *Plant-Incorporated Protectants; Potential Revisions to Current Production Regulations* published in the **Federal Register** of April 4, 2007 (72 FR 16312) (FRL–8118–2) provides the basis for the public meetings described in this document and contains the background information describing the nature of the issue and the areas where EPA is considering amending regulations. That document is available in the docket established for this action as described in Unit I.B.

Submit public comments on the ANPRM published in the **Federal Register** of April 4, 2007 (72 FR 16312) (FRL–8118–2) to regulations.gov using the methods listed under **ADDRESSES** in that document. If the oral comments are different from previously submitted comments on the ANPRM, please also submit a copy of the comments that will be presented at the meeting to the docket using the submission methods under **ADDRESSES** in the ANPRM.

III. How Can I Participate in these Meetings?

A. Oral Comments and/or Presentations

The Agency encourages each individual or group wishing to make oral comment and/or a presentation to submit the request to the person listed under **FOR FURTHER INFORMATION CONTACT** no later than 10 days before the meeting that the person wishes to attend, in order to be included on the meeting agenda. Requests to present oral comments and/or presentations will be accepted until the date of the meeting and, to the extent that time permits the presentation of oral comments and/or presentations at the meeting by interested persons who have not previously submitted a request will be allowed. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments and/or presentations will be limited to approximately 5 minutes unless prior arrangements have been made.

B. Seating

Seating at the meetings will be on a first-come basis.

List of Subjects in 40 CFR Parts 152, 156, 167, 168, 169, 172, and 174

Environmental protection, Pesticides and pests, Plant-incorporated protectants (PIPs), Reporting and recordkeeping requirements.

Dated: March 30, 2007.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–6621 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

43 CFR Part 10

Consultation On Regulations Regarding The Disposition Of Unclaimed Native American Human Remains, Funerary Objects, Sacred Objects, Or Objects Of Cultural Patrimony Excavated Or Discovered On Federal Or Tribal Lands After November 16, 1990, Pursuant To Provisions Of The Native American Graves Protection And Repatriation Act (NAGPRA)

AGENCY: National Park Service, Interior.

ACTION: Notice of consultation.

SUMMARY: This notice of consultation announces three consultation meetings that will be held to obtain oral and written recommendations on regulations to be drafted regarding the disposition of unclaimed Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony that are excavated or discovered on Federal or tribal lands after November 16, 1990.

DATES: The three consultation meetings are scheduled for April 18–20, 2007:

1. Tribal consultation: April 18, 2007, 8:30 a.m. to noon, U.S. Department of the Interior, South Building Auditorium, 1951 Constitution Avenue NW, Washington, DC 20245. Authorized representatives of Indian tribes and Native Hawaiian organizations and traditional Native American religious leaders are invited to participate in this meeting. Tribal representatives wishing to make a public presentation at this session should submit a request to do so by April 13, 2007, including evidence that you are authorized to speak on behalf of an Indian tribe or Native Hawaiian organization.

2. Museum consultation: April 18, 2007, 1 p.m. to 4:30 p.m., U.S. Department of the Interior, South Building Auditorium, 1951 Constitution Avenue NW., Washington, DC 20245. Authorized representatives of museums and national museum and scientific organizations are invited to participate in this meeting. Museum representatives wishing to make a public presentation at this session should submit a request to do so by April 13, 2007, including evidence that you are authorized to speak on behalf of a museum or national museum or scientific organization.

3. Review Committee consultation: April 19–20, 2007, Sidney R. Yates Auditorium, Main Interior Building, 1849 C Street NW., Washington, DC 20240. Time will be scheduled during the Review Committee meeting for members of the public to provide oral and written recommendations. Members of the public wishing to make a public presentation at the Review Committee meeting should submit a request to do so by April 13, 2007.

Requests to make presentations at any of the sessions should be faxed to (202) 371–5197 by April 13, 2007. Written comments should be postmarked or faxed to Sherry Hutt as indicated under **ADDRESSES** no later than May 1, 2007.

ADDRESSES: Written comments may be mailed to Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW, Washington, DC 20240. Comments may also be faxed to Sherry Hutt at (202) 371–5197.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The consultation sessions with Indian tribes, Native Hawaiian organizations, traditional Native American religious leaders, museums and national museum and scientific organizations on April 18, 2007 will be held at U.S. Department of the Interior, South Building Auditorium, 1951 Constitution Avenue NW, Washington, DC 20245. The consultation session with the Native American Graves Protection and Repatriation Review Committee on April 19–20, 2007 will be held at the Sidney R. Yates Auditorium, Main Interior Building, 1849 C Street NW., Washington, DC 20240. All individuals attending the consultation sessions will be required to present photo identification to security officers to gain access to the U.S. Department of the Interior buildings.

FOR FURTHER INFORMATION CONTACT: Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW., Washington, DC 20240, telephone: (202) 354–1479.

SUPPLEMENTARY INFORMATION: The purpose of the consultation meetings is to provide Native American organizations, museums and the scientific community, and the Native American Graves Protection and Repatriation Review Committee with an opportunity to consult on forthcoming regulations regarding the disposition of unclaimed Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated or discovered on Federal or tribal lands after November 16, 1990.

The April 18, 2007, 8:30 a.m to noon consultation meeting supports the Secretary of the Interior's administrative policy on tribal consultation by encouraging maximum direct participation of representatives of tribal governments on important Departmental issues and processes.

The April 18, 2007, 1 p.m. to 4:30 p.m. consultation meeting supports the Secretary of the Interior's responsibility to consult with museums and the

scientific community in the development of these regulations.

The April 19–20, 2007 consultation meeting supports the Secretary of the Interior's responsibility to consult with the Review Committee regarding the development of regulations.

The Native American Graves Protection and Repatriation Act provides criteria for determining the ownership of Native American cultural items that are excavated or discovered on Federal or tribal lands after November 16, 1990 [25 U.S.C. 3002 (a)]. Ownership or control of such items is, with priority given in the order listed:

(1) In the case of human remains and associated funerary objects, in the lineal descendant of the deceased individual;

(2) In cases where the lineal descendant cannot be ascertained or no claim is made, and with respect to unassociated funerary objects, sacred objects, and objects of cultural patrimony:

(i) In the Indian tribe on whose tribal land the human remains, funerary objects, sacred objects, or objects of cultural patrimony were discovered inadvertently;

(ii) In the Indian tribe or Native Hawaiian organization that has the closest cultural affiliation with the human remains, funerary objects, sacred objects, or objects of cultural patrimony;

(iii) In circumstances in which the cultural affiliation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony cannot be ascertained and the objects were discovered inadvertently on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of an Indian tribe:

(A) In the Indian tribe aboriginally occupying the Federal land on which the human remains, funerary objects, sacred objects, or objects of cultural patrimony were discovered, or

(B) If it can be shown that a different Indian tribe or Native Hawaiian organization has a stronger cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony, in the Indian tribe or Native Hawaiian organization that has the strongest demonstrated relationship with the objects [43 CFR 10.6 (a)].

The Act directs that Native American cultural items not claimed under subsection (a) shall be disposed of in accordance with regulations promulgated by the Secretary of the Interior in consultation with the Review Committee, Native American groups, representatives of museums, and the scientific community [25 U.S.C. 3002 (b)]. One section of the regulations was reserved for procedures to effect the disposition of Native American cultural items that are not claimed [43 CFR 10.7].

Participants in the consultation meetings are requested to comment on the following issues:

(1) How should the regulations address distinctions between:

(a) human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which ownership or control is with a lineal descendant or an Indian tribe or Native Hawaiian organization on whose lands the cultural items were discovered?

(b) human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which an Indian tribe or Native Hawaiian organization has stated a claim based on cultural affiliation, aboriginal land, or cultural relationship?

(c) human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which a non-federally recognized Indian group has stated a claim based on a relationship of shared group identity?

(d) human remains and associated funerary objects remaining in Federal care for which no claim has been made?

(2)Do current regulations regarding the curation of Federally-owned and administered archaeological collections [36 CFR 79] adequately address the management, preservation, and use of human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care?

Dated: April 5, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–6789 Filed 4–10–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 032907A]

RIN 0648–AS22

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

ACTION: Notice of Availability of proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) (Amendment 14), incorporating the draft Environmental Assessment (EA), preliminary Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce and is requesting comments from the public.

The proposed measures include a plan to rebuild the scup stock from an overfished condition to the level associated with maximum sustainable yield, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The proposed action also includes an administrative change that would allow changes to the scup Gear Restricted Areas (GRAs) through a framework adjustment to the FMP. The intended effect of this change is to improve the timing of developing and implementing modifications to the GRAs.

DATES: Comments must be received on or before June 11, 2007.

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

- E-mail: *FSBAmendment14NOA@noaa.gov*. Include in the subject line the following identifier: ''Comments on Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP.''
- Federal e-rulemaking portal: *http://www.regulations.gov*

• Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP.''

• Fax: (978) 281–9135

Copies of Amendment 14 and of the draft Environmental Assessment, preliminary Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Michael P. Ruccio, Fishery Policy Analyst, 978–281–9104.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** that the amendment is available for public review and comment. If approved by NMFS, this amendment would implement a rebuilding program to increase the scup stock to the level associated with maximum sustainable yield (B_{msy}). The amendment would also effect an administrative change to the regulations on framework adjustments.

Background

In August 2005, NMFS notified the Council that the scup stock had officially been designated as overfished as defined by the Magnuson-Stevens Act. Specifically, the 3–year Northeast Fishery Science Center (NEFSC) spawning stock biomass (SSB) value for scup had declined below the minimum biomass threshold. In response, the Council began development of Amendment 14 to the FMP in February 2006 to rebuild the scup stock to the biomass target.

This action proposes scup rebuilding program alternatives which would, within at least 10 years, increase the scup stock to the target biomass level (i.e., achieve stock rebuilding) as required by the Magnuson-Stevens Act. In addition, this action proposes a single administrative change to the procedures for modifying the GRAs. Currently, GRAs are modified though the annual specification process. This action proposes to change the procedures so that GRAs may be modified through framework adjustments to the FMP.

Public comments are being solicited on Amendment 14 and its incorporated documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 14 will be published in the **Federal Register** for public comment, following NMFS's evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability of Amendment 14 to be considered in the approval/disapproval decision on the amendment. All comments received by June 11, 2007, whether specifically directed to Amendment 14 or the proposed rule will be considered in the approval/disapproval decision on Amendment 14. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 14. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: April 5, 2007.

James P. Burgess,

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

[FR Doc. E7–6881 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 69
Wednesday, April 11, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–2007–0046; FV–07–15]

Notice of Funds Availability (NOFA) Inviting Applications for the Specialty Crop Block Grant Program (SCBGP)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces the availability of approximately $6,895,000 in block grant funds to enhance the competitiveness of specialty crops. State departments of agriculture interested in obtaining grant program funds are invited to submit applications to USDA. State departments of agriculture, meaning agencies, commissions, or departments of a State government responsible for agriculture within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, are eligible to apply. State departments of agriculture are encouraged to involve industry groups, academia, and community-based organizations in the development of applications and the administration of projects.

DATES: Applications must be postmarked not later than April 11, 2008.

ADDRESSES: Applications may be sent to: SCBGP, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0235, Room 2077 South Building, Washington, DC 20250–0235.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Phone: (202) 690–4942, e-mail: *trista.etzig@usda.gov* or your State department of agriculture listed on the SCBGP Web site at *http://www.ams.usda.gov/fv/*.

SUPPLEMENTARY INFORMATION: SCBGP is authorized under Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) and is implemented under 7 CFR Part 1290 [Docket No. FV06–1290–1 FR]. The SCBGP assists State departments of agriculture in enhancing the competitiveness of U.S. specialty crops.

Specialty crops are defined as fruits and vegetables, dried fruit, tree nuts, and nursery crops (including floriculture). Examples of enhancing the competitiveness of specialty crops include, but are not limited to: Research, promotion, marketing, nutrition, trade enhancement, food safety, food security, plant health programs, education, ''buy local'' programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

Each interested State department of agriculture is to submit an application anytime before April 11, 2008 to the USDA contact noted in the **FOR FURTHER INFORMATION** section. AMS will work with each State department of agriculture and provide assistance as necessary. State departments of agriculture that have not yet applied for fiscal year 2006 grant funds must submit an application postmarked not later than October 11, 2007 to qualify for receiving fiscal year 2006 grant funds. State departments of agriculture who wish to apply for both fiscal year 2006 and 2007 grant funds at the same time may submit one application postmarked not later than October 11, 2007. To apply for only fiscal year 2007 funds, State departments of agriculture must submit an application postmarked not later than April 11, 2008.

Other organizations interested in participating in this program should contact their State Department of Agriculture. State departments of agriculture specifically named under the authorizing legislation should assume the lead role in SCBGP projects, and use cooperative or contractual linkages with other agencies, universities, institutions, and producer, industry or community-based organizations as appropriate.

Additional details about the SCBGP application process for all applicants are available at the SCBGP Web site: *http://www.ams.usda.gov/fv/*.

To be eligible for a grant, each State department of agriculture's application shall be clear and succinct and include the following documentation satisfactory to AMS:

(a) Completed applications must include an SF–424 ''Application for Federal Assistance''.

(b) Completed applications must include one State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops. State departments of agriculture that have not yet applied for grant funds under the program may submit one State plan postmarked not later than October 11, 2007 for both fiscal year 2006 and 2007 grant funds. SCBGP grant funds will be awarded for projects of up to 3 years duration, which commences when the grant agreement is signed. An application that builds on a previously funded SCBGP project may also be submitted. In such cases, the State plan should indicate clearly how the project compliments previous work. The state plan shall include the following:

(1) Cover page. Include the lead agency for administering the plan and an abstract of 200 words or less for each proposed project.

(2) Project purpose. Clearly state the specific issue, problem, interest, or need to be addressed. Explain why each project is important and timely.

(3) Potential Impact. Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project(s).

(4) Financial Feasibility. For each project, provide budget estimates for the total project cost. If submitting one State plan for both fiscal year 2006 and 2007 grant funds, identify which fiscal year funding is utilized for each project. If a project uses funds from both fiscal years, identify the amount of each fiscal year's funding. Also, indicate what percentage of the budget covers administrative costs. Administrative costs should not exceed 10 percent of any proposed budget. Provide a justification if administrative costs are higher than 10 percent.

(5) Expected Measurable Outcomes. Describe at least two distinct, quantifiable, and measurable outcomes that directly and meaningfully support each project's purpose. The outcome measures must define an event or condition that is external to the project and that is of direct importance to the

intended beneficiaries and/or the public.

(6) Goal(s). Describe the overall goal(s) in one or two sentences for each project.

(7) Work Plan. Explain briefly how each goal and measurable outcome will be accomplished for each project. Be clear about who will do the work. Include appropriate time lines. Expected measurable outcomes may be long term that exceed the grant period. If so, provide a timeframe when long term outcome measure will be achieved.

(8) Project Oversight. Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration.

(9) Project Commitment. Describe how all grant partners commit to and work toward the goals and outcome measures of the proposed project(s).

(10) Multi-State Projects. If a project is a multi-state project, describe how the States are going to collaborate effectively with related projects. Each State participating in the project should submit the project in their State plan indicating which State is taking the coordinating role and the percent of the budget covered by each State.

Each State department of agriculture that submits an application that is reviewed and approved by AMS is to receive $100,000 to enhance the competitiveness of specialty crops. In addition, AMS will allocate the remainder of the grant funds based on the proportion of the value of specialty crop production in the state in relation to the national value of specialty crop production using the latest available (2005 National Agricultural Statistics Service (NASS) cash receipt data for the 50 States and the District of Columbia and 2002 Census of Agriculture data for the Commonwealth of Puerto Rico) specialty crop production data in all states whose applications are accepted.

After USDA administrative costs, the amount of the base grant plus value of production available to each State department of agriculture shall be:

(1) Alabama, $108,926.78
(2) Alaska, $100,520.67
(3) Arizona, $133,290.44
(4) Arkansas, $102,675.16
(5) California, $652,477.92
(6) Colorado, $116,139.35
(7) Connecticut, $107,934.62
(8) Delaware, $102,403.75
(9) District of Columbia, $100,000.00
(10) Florida, $253,750.10
(11) Georgia, $129,864.25
(12) Hawaii, $109,201.37
(13) Idaho, $121,388.06
(14) Illinois, $111,450.21
(15) Indiana, $109,567.29
(16) Iowa, $103,249.43
(17) Kansas, $102,197.15
(18) Kentucky, $102,827.56
(19) Louisiana, $104,950.42
(20) Maine, $105,806.75
(21) Maryland, $111,602.37
(22) Massachusetts, $107,596.35
(23) Michigan, $136,342.33
(24) Minnesota, $113,274.97
(25) Mississippi, $103,626.70
(26) Missouri, $104,289.46
(27) Montana, $102,726.15
(28) Nebraska, $104,133.83
(29) Nevada, $101,478.01
(30) New Hampshire, $102,244.91
(31) New Jersey, $117,036.97
(32) New Mexico, $108,507.39
(33) New York, $129,212.32
(34) North Carolina, $136,155.66
(35) North Dakota, $109,135.59
(36) Ohio, $122,689.29
(37) Oklahoma, $107,188.11
(38) Oregon, $148,320.35
(39) Pennsylvania, $128,893.21
(40) Puerto Rico, $106,053.13
(41) Rhode Island, $101,417.97
(42) South Carolina, $110,424.99
(43) South Dakota, $100,850.02
(44) Tennessee, $111,629.63
(45) Texas, $156,488.66
(46) Utah, $103,135.47
(47) Vermont, $101,397.90
(48) Virginia, $111,797.84
(49) Washington, $182,441.82
(50) West Virginia, $100,286.87
(51) Wisconsin, $120,305.36
(52) Wyoming, $100,695.09.

Applicants submitting hard copy applications should submit one unstapled original and one unstapled copy of the application package. The SF–424 must be signed (with an original signature) by an official who has authority to apply for Federal assistance. Hard copy applications should be sent only via express mail to AMS at the address noted at the beginning of this notice because USPS mail sent to Washington, DC headquarters is sanitized, resulting in possible delays, loss, and physical damage to enclosures. AMS will send an email confirmation when applications arrive at the AMS office.

Applicants who submit hard copy applications are also encouraged to submit electronic versions of their application directly to AMS via email addressed to scblockgrants@usda.gov in one of the following formats: Word (*.doc); or Adobe Acrobat (*.pdf). Alternatively, a standard 3.5 '' HD diskette or a CD may be enclosed with the hard copy application.

Applicants also have the option of submitting SCBGP applications electronically through the central Federal grants web site, *http://www.grants.gov* instead of mailing hard copy documents. Applicants considering the electronic application option are strongly urged to familiarize themselves with the Federal grants web site and begin the application process well before the application deadline.

SCBGP is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.169 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs.

Authority: 7 U.S.C. 1621 note.

Dated: April 5, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–6841 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Credit System Insurance Corporation

Farm Credit System Insurance Corporation Board; Regular Meeting

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATE AND TIME: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 12, 2007, from 10 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available) and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- January 11, 2007 (Open and Closed).

B. Business Reports

- FCSIC Financial Report.
- Report on Insured Obligations.
- Quarterly Report on Annual Performance Plan.

C. New Business

- Presentation of 2006 Audit Results.

Closed Session

- FCSIC Report on System Performance.
- Executive Session of the FCSIC Board Audit Committee. with the External Auditor.

Dated: April 5, 2007.

Roland E. Smith,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. E7–6845 Filed 4–10–07; 8:45 am]

BILLING CODE 6710–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Northern Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, Grasslands, and the Regional Office of the Northern Region to publish legal notices for public comment and decisions subject to appeal and predecisional administrative review under 36 CFR 215, 217, and 218. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions; thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 6, 2007. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Appeals and Litigation Group Leader, Northern Region, P.O. Box 7669, Missoula, Montana 59807. Phone: (406) 329–3696.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana: The Missoulian, Great Falls Tribune, and The Billings Gazette.

Regional Forester decisions in Northern Idaho and Eastern Washington: Coeur d'Alene Press and Lewiston Tribune.

Regional Forester decisions in North Dakota: Bismarck Tribune.

Regional Forester decisions in South Dakota: Bismarck Tribune.

Beaverhead/Deerlodge NF—Montana Standard.

Bitterroot NF—Ravalli Republic.

Clearwater NF—Lewiston Tribune.

Custer NF—Billings Gazette (Montana).

Rapid City Journal (South Dakota).

Dakota Prairie Grasslands—Bismarck Tribune (North and South Dakota).

Flathead NF—Daily Inter Lake.

Gallatin NF—Bozeman Chronicle.

Helena NF—Independent Record.

Idaho Panhandle NFs—Coeur d'Alene Press.

Kootenai NF—Daily Inter Lake.

Lewis & Clark NF—Great Falls Tribune.

Lolo NF—Missoulian.

Nez Perce NF—Lewiston Tribune.

Supplemental notices may be placed in any newspaper, but time frames/deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: April 2, 2007.

Kathleen A. McAllister,

Deputy Regional Forester.

[FR Doc. 07–1782 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Intermountain Region, Boise, Payette, and Sawtooth National Forests; Supplement to the Environmental Impact Statement for the Revised Land and Resource Management Plans and Amendment to the Revised Payette Land and Resource Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to the Final Environmental Impact Statement (EIS) for the Southwest Idaho Ecogroup (SWIEG) Revised Land and Resource Management Plans (LRMP) that may result in an amendment to the Payette LRMP.

SUMMARY: The Forest Service will prepare a supplement to the Final Environmental Impact Statement (FEIS) for the Southwest Idaho Ecogroup (SWIEG) Revised Land and Resource Management Plans and may amend the Payette Revised LRMP. This supplement is being conducted in order to comply with the Chief's appeals decision of March 9, 2005. It is intended to present additional information for the Payette National Forest portion of the SWIEG concerning: (1) The viability of Rocky Mountain bighorn sheep (bighorn sheep) at the planning unit scale; (2) compliance with the Hells Canyon National Recreation Area Act (HCNRA); (3) 36 CFR 292.48; (4) compliance with the National Forest Management Act (NFMA); and (5) 36 CR 219.19. The amendment would add direction to the Payette Revised LRMP to address the viability concerns for bighorn sheep.

DATES: Comments on the draft supplement to the FEIS and amendment to the Payette Revised LRMP must be received within 90 days after publication of the draft supplement to the FEIS for the Southwest Idaho Ecogroup Revised Land and Resource Management Plans (SWIEG FLRMPs) and the draft amendment to the Payette LRMP. The draft supplement to the SWIEG FLRMPs EIS and the draft amendment to the Payette LRMP are expected in June 2007 and the final supplement and amendment are expected in December 2007.

ADDRESSES: Send written comments to Pattie Soucek, Land Management Planner, Payette National Forest, 800 W. Lakeside Avenue, McCall, Idaho 83638–3602; or via telephone at (208) 634–0700; or you may hand-deliver your comments to the Payette Forest Supervisor's Office, located at 800 W. Lakeside Avenue in McCall during normal business hours from 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. Electronic comments must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), and Word (.doc) to: *comments-intermtn-Payette@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Pattie Soucek, Land Management Planner, Payette National Forest, at the address above.

SUPPLEMENTARY INFORMATION: On March 9, 2005, the Chief of the Forest Service made the decision on the administrative appeals for the Payette Revised LRMP. The Chief reversed the Regional Forester's decision to approve management direction for the Hells Canyon Management Area (MA) as it pertains to bighorn sheep and its habitat. The Regional Forester was instructed to reanalyze bighorn sheep viability within the Payette NF, amend the SWIEG FEIS accordingly, and evaluate and adopt as necessary, changes in the management direction for the Hells Canyon MA and adjacent areas. The analysis and evaluation must

be extensive enough to support determinations of compliance with applicable law and regulation, specifically the Hells Canyon NRA Act, 36 CFR 219.19 and 36 CFR 292.48.

In response to these instructions, the Forest Service has reanalyzed bighorn sheep viability at the Payette National Forest planning unit scale. The viability analysis considered the well distributed bighorn sheep habitat and its proximity to know bighorn sheep populations. Direct, indirect and cumulative impacts to bighorn sheep from permitted domestic sheep grazing have been assessed and home range population modeling completed. The Forest Service has also reviewed applicable laws and regulations for compliance, specifically the Hells Canyon NRA Act, 36 CFR 292.48, the National Forest Management Act, and 36 CFR 219.19. The Forest Service has reviewed the 2003 SWIEG FLRMPs FEIS, in accordance with FSH 1909.15, Chapter 10, Section 18.

The analysis for the revised FLRMPs, and this updated bighorn sheep analysis, were developed using the principles and scientific methods generated during the Interior Columbia Basin Ecosystem Management Project. In addition, the updated analysis incorporates the findings of two expert panels. Additional information utilized for this analysis includes 10 years of site-specific data gathered during an ongoing monitoring effort of 154 telemetry collared bighorn sheep in the Hells Canyon area and visual observations of bighorn sheep in the Salmon River Mountains along with the management of permitted domestic sheep grazing allotments. The Forest Service will prepare a supplement to the FEIS by presenting and analyzing additional information concerning the viability of bighorn sheep for the Payette Forest planning unit and compliance with Federal law; specifically, the Hells Canyon National Recreation Area Act (HCNRA), the National Forest Management Act (NFMA), 36 CFR 292.48, and 36 CFR 219.19.

In July 2003, a separate Record of Decision (ROD) was issued for each of the three SWIEG Forests (Boise, Payette, and Sawtooth). The RODs implemented Alternative 7 from the Final EIS. During Forest Plan Revision, the risk for disease transmission between bighorn sheep and domestic sheep was identified as a significant issue for the future viability of bighorn sheep in the 2003 SWIEG FLRMPs FEIS. In response to the issue, alternatives were developed and analyzed in detail that removed high risk areas for disease transmission from suitability for domestic sheep grazing. Alternative 7 was selected for implementation in the Record of Decision. This Alternative did not remove the high risk for disease transmission areas from domestic sheep grazing suitability.

Purpose and Need for Action: This supplement to the EIS will not change the purpose and need as described in the SWIEG FLRMPs FEIS on pages 1–4 through 1–8.

Proposed Action: The supplement will not change the proposed action which was described in the SWIEG FLRMPs FEIS on pages 1–1 through 1–3.

Responsible Official: The Responsible Official is Suzanne C. Rainville, Payette Forest Supervisor, Payette National Forest, 800 W. Lakeside Avenue, McCall, ID 83638–3602.

Nature of Decision To Be Made: The Responsible Official will review the supplement to the FEIS and determine what changes will be made to the Revised Payette National Forest Plan to address the significant issue of the risk of disease transmission to bighorn sheep. The Responsible Official will also determine if the Revised LRMP is applicable to Federal laws and regulations.

Scoping Process: Extensive public involvement occurred during the development of the revised Forest Plans over the last 10 years in the form of news releases, field tours, and public meetings. No additional scoping is planned for this supplement.

Comment Requested: a legal notice will be published in the newspaper of record and a Notice of Availability will be published in the **Federal Register** to inform the public when the draft supplement to the SWIEG FLRMPs FEIS is available for review and comment. The draft supplement to the SWIEG FLRMPs FEIS will be distributed to all parties that received the 2003 SWIEG FLRMPs FEIS, RODs and/or the Payette LRMP and to those parties that filed an appeal of the 2003 decisions.

The comment period on the draft supplement to the SWIEG FLRMPs FEIS will be 90 days from the date the Environmental Protection Agency publishes the Notice of Availability of the draft documents in the **Federal Register**. Comments must be received by the close of the 90-day comment period so that concerns are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final supplement to the SWIEG FLRMPs FEIS.

To assist the Forest Service, it is helpful if comments refer to specific pages of the draft supplement and/or draft amendment. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection. (40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: April 4, 2007.

Suzanne C. Rainville,

Forest Supervisor, Payette National Forest.

[FR Doc. 07–1788 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tahoe National Forest, CA, Tahoe National Forest Motorized Travel Management EIS

AGENCY: Forest Service, USDA.

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

SUMMARY: The Tahoe National Forest (TNF) will prepare an Environmental Impact Statement to disclose the impacts associated with the following proposed actions: (1) The addition of approximately 50 miles of existing unauthorized routes to the current system of National Forest System (NFS) trails currently open to the public for wheeled motorized vehicle use. (2) The addition of one 60 acre area, where use of wheeled motorized vehicles by the public would be allowed anywhere within that area. (3) Allowing non-street legal vehicle use on approximately 3 miles of an existing NFS road where such use is currently prohibited, (4) The prohibition of wheeled motorized vehicle travel off designated NFS roads, NFS trails and areas by the public except as allowed by permit or other authorization.

DATES: The Notice of Intent is expected to be published in **Federal Register** on April 13, 2007. The comment period on the proposed action will extend 30 days from the date the Notice of Intent is published in the **Federal Register.** Completion of the Draft Environmental Impact Statement (DEIS) is expected in September 2007 and the Final Environmental Impact Statement (FEIS) is expected in January 2008.

ADDRESSES: Send written comments to: Travel Management Team, Tahoe National Forest, 631 Coyote Street, Nevada City, California, 95959.

FOR FURTHER INFORMATION CONTACT: David Arrasmith, Tahoe National Forest, 631 Coyote Street, Nevada City, California, 95959. Phone: (530) 478–6143. E-mail: *darrasmith@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Over the past few decades, the availability and capability of motorized vehicles, particularly off-highway vehicles (OHVs) and sport utility vehicles (SUVs) has increased tremendously. Nationally, the number of OHV users has climbed sevenfold in the past 30 years, from approximately 5 million in 1972 to 36 million in 2000. California is experiencing the highest level of OHV use of any state in the nation. There were 786,914 ATVs and OHV motorcycles registered in 2004, up 330% since 1980. Annual sales of ATVs and OHV motorcycles in California were the highest in the U.S. for the last 5 years. Four-wheel drive vehicle sales in California also increased by 1500% to 3,046,866 from 1989 to 2002.

Unmanaged OHV use has resulted in unplanned roads and trails, erosion, watershed and habitat degradation, and impacts to cultural resource sites. Compaction and erosion are the primary effects of OHV use on soils. Riparian areas and aquatic dependent species are particularly vulnerable to OHV use. Unmanaged recreation, including impacts from OHVs, is one of ''Four Key Threats Facing the Nation's Forests and Grasslands.'' (USDA Forest Service, June 2004).

On August 11, 2003, the Pacific Southwest Region of the Forest Service entered into a Memorandum of Intent (MOI) with the California Off-Highway Motor Vehicle Recreation Commission, and the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation. That MOI set in motion a region-wide effort to ''Designate OHV roads, trails, and any specifically defined open areas for motorized wheeled vehicles on maps of the 19 National Forests in California by 2007.''

On November 9, 2005, the Forest Service published final travel management regulations in the **Federal Register** (FR Vol. 70, No. 216–Nov. 9, 2005, pp. 68264–68291). This final Travel Management Rule requires designation of those roads, trails, and areas that are open to motor vehicle use on National Forests. Designations will be made by class of vehicle and, if appropriate, by time of year. The final rule prohibits the use of motor vehicles off the designated system as well as use of motor vehicles on routes and in areas that are not consistent with the designations.

On some NFS lands, long managed as open to cross-country motor vehicle travel, repeated use has resulted in unplanned, unauthorized, roads and trails. These routes generally developed without environmental analysis or public involvement, and do not have the same status as NFS roads and NFS trails included in the forest transportation system. Nevertheless, some unauthorized routes are well-sited, provide excellent opportunities for outdoor recreation by motorized and non-motorized users, and would enhance the National Forest system of designated roads, trails and areas. Other unauthorized routes are poorly located and cause unacceptable impacts. Only NFS roads and NFS trails can be designated for wheeled motorized vehicle use. In order for an unauthorized route to be designated, it must first be added to the forest transportation system.

In 2005, the TNF completed an inventory of unauthorized routes on NFS lands as described in the MOI and identified approximately 2,500 miles of unauthorized routes. The TNF then used an interdisciplinary process to conduct travel analysis that included working with the public to identify proposals for changes to the existing TNF transportation system. Roads, trails and areas that are currently part of the TNF transportation system and open to wheeled motorized vehicle travel will remain designated for such use except as described below under the Proposed Action. This proposal identifies needed changes (vehicle restrictions, additional motorized trails and areas, etc.) to the Tahoe National Forest NFS roads, NFS trails and areas on NFS lands in accordance with the Travel Management Rule (36 CFR part 212).

Purpose and Need for Action

The following needs have been identified for this proposal:

1. There is a need for regulation of unmanaged wheel motorized vehicle travel by the public. The Travel Management Rule, 36 CFR part 212, provides policy for administering the Forest transportation system including the designation of NFS roads, trails and areas, and the prohibition of cross-country travel.

2. There is a need for the prevention of resource damage caused by unmanaged wheeled motorized travel by the public. The Tahoe National Forest Land and Resource Management Plan (Amended 2005) contains a Forestwide Standard and Guideline which states in part ''Prohibit wheeled vehicle travel off of designated routes, trails, and limited off highway vehicle (OHV) use areas.'' The proliferation of unplanned, non-sustainable roads, trails and areas degrades the environment.

3. There is a need for limited changes to the TNF transportation system to:

3.1 Provide wheeled motorized access to dispersed recreation opportunities (camping, hunting, fishing, hiking, horseback riding, etc.).

3.2 Provide a diversity of wheeled motorized recreation opportunities (4X4 Vehicles, motorcycles, ATVs, passenger vehicles, etc.).

3.3 Provide the minimum transportation system needed for safe and efficient travel by the public and for administration, utilization and protection of NFS lands 36 CFR 212.5(b).

It is Forest Service policy to provide a diversity of road and trail opportunities for experiencing a variety of environments and modes of travel consistent with the National Forest recreation role and land capability (FSM 2353.03(2)).

In meeting these needs, any changes to the NFS roads, motorized trails and areas should also achieve the following purposes:

A. Avoid impacts to cultural resources.

B. provide for public safety.

C. Provide for a diversity of recreational opportunities.

D. Assure adequate access to public and private lands.

E. Provide for adequate maintenance and administration of designations based on availability of resources and funding to do so.

F. Minimize damage to soil, vegetation and other forest resources.

G. Avoid harassment of wildlife and significant disruption of wildlife habitat.

H. Minimize conflicts between wheeled motor vehicles and existing or proposed recreational uses of NFS lands.

I. Minimize conflicts among different classes of wheeled motor vehicle uses of NFS lands or neighboring federal lands.

J. Assure compatibility of wheeled motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, etc.

K. Have valid existing rights of use and access (rights-of-way).

Proposed Action

1. *Motorized Trail Additions*—The TNF currently manages and maintains approximately 2,640 miles of NFS road and 760 miles of NFS motorized trails. Based on the stated purpose and need for action, and as a result of the recent

travel analysis process, the TNF proposes to add approximately 50 miles to its NFS motorized trails, bringing the total National Forest system of motorized trails to approximately 810 miles. The additional motorized trails are listed below along with the permitted vehicle class and season of use.

MOTORIZED TRAILS ADDITIONS

Route ID	Length (miles)	Permitted vehicle class	Season of use
YRN–11	0.24	ALL	Yearlong.
YRN–5abc	0.30	ALL	Yearlong.
YRN–1	1.22	ALL	Yearlong.
YRN–2	1.40	ALL	Yearlong.
YRN–4	0.60	ALL	Yearlong.
YRN–6	0.79	ALL	Yearlong.
SV–P4	1.12	ALL	Yearlong.
YRN–M3b	2.65	Motorcyle only	Yearlong.
SV–P12	0.59	ALL	Yearlong.
SV–P13	0.90	ALL	Yearlong.
SV–P14	0.37	ALL	Yearlong.
SV–P14a	0.27	ALL	Yearlong.
SV–P15	1.16	ALL	Yearlong.
SV–P17	0.57	ALL	May 2 to October 31.
SV–P5	0.41	ALL	Yearlong.
SV–P7e	0.82	ALL	Yearlong.
SV–P7w	0.53	ALL	Yearlong.
SV–P19	0.17	ALL	Yearlong.
SV–P8	0.31	ALL	Yearlong.
YRM–M4	0.26	Motorcycle only	Yearlong.
SV–P18	0.59	ALL	Yearlong.
TKN–J10	0.37	ALL	Yearlong.
TKN–J2	0.67	ALL	Yearlong.
TKN–J3	0.38	ALL	Yearlong.
TKN–J9	1.79	ALL	Yearlong.
TKN–J12	0.69	ALL	Yearlong.
TKN–J13	1.68	ALL	Yearlong.
TKN–M3	2.83	Motorcycle only	Yearlong.
TKN–M1	3.50	Motorcycle only	Yearlong.
TKN–J4	3.36	ALL	Yearlong.
TKN–J5	1.37	ALL	Yearlong.
TKN–J6	0.17	ALL	Yearlong.
YRS–AF	0.33	ALL	Yearlong.
YRS–F1	1.07	ALL	Yearlong.
YRS–G3	0.38	ALL	Yearlong.
TKN–J14	0.72	ALL	Yearlong.
YRS–SF5	3.94	Motorcycle only	Yearlong.
YRS–SF6	2.37	Motorcycle only	Yearlong.
YRS–B12	0.12	Motorcycle only	May 2 to October 31.
YRS–B7	0.24	Motorcycle only	May 2 to October 31.
TKS–M9	2.97	Motorcycle only	Yearlong.
ARM–13	0.78	ALL	May 2 to October 31.
ARM–2	0.51	Vehicles 50'' or less in width	May 2 to October 31.
ARM–5	0.79	ALL	May 2 to October 31.
ARM–7	0.70	ALL	May 2 to October 31.
ARM–3	2.31	Vehicles 50'' or less in width	Yearlong.
ARM–3a	1.49	Vehicles 50'' or less in width	Yearlong.
TKS–11	0.91	ALL	Yearlong.
Total	51.71		

2. *Motorized Open Area Addition*—The Tahoe National Forest currently has four areas designated open to wheeled motorized vehicle use. The Tahoe National Forest proposes to designate one additional area which would create a total of five areas open to wheeled motor vehicle use forest wide. The additional motorized area is listed below along with the permitted vehicle class and season of use.

MOTORIZED OPEN AREA ADDITION

Area name	Acreage	Permitted vehicle class	Season of use
Eureka Diggings	60	ALL	Year Round.

3. *Allowing non-street legal vehicle access to approximately 3 miles of an existing NFS road where such use is currently prohibited*—TNF maintenance level 3, 4, and 5 roads are subject to the Federal Highway Safety Act. As a result, these roads are designated as open to highway legal vehicles only. Maintenance level 2 roads are currently designated as open to all vehicle classes. The TNF proposed the following change in vehicle class:

VEHICLE CLASS ADDITION

Road	Length	Current permitted vehicle class	Proposed permitted vehicle class
843–37 French Lake Road	3.4	Highway Legal Only	All.

4. Probition of wheeled motorized vehicle travel off the designated NFS roads, NFS trails and areas by the public except as allowed by permit or other authorization.

Maps and tables describing in detail both the TNF transportation system and the proposed action can found at *http://www.fs.fed.us/r5/tahoe/.* In addition, maps will be available for viewing at:

1. Supervisor's Office, 631 Coyote Street, Nevada City, CA 95959.

2. American River Ranger District, 22830 Foresthill Road, Foresthill, CA 95631.

3. Yuba River Ranger District, 15924 Highway 49, Camptonville, CA 95922.

4. Sierraville Ranger District, 317 South Lincoln Street, Sierraville, CA 96126.

5. Truckee Ranger District, 9646 Donner Pass Road, Truckee, CA 96161.

Responsible Official

Steven T. Eubanks, Forest Supervisor, Tahoe National Forest, 631 Coyote Street, Nevada City, California 95959.

Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to make change to the existing Tahoe National Forest Transportation System and prohibit cross country wheeled motorized vehicle travel by the public off the designated system.

Scoping Process

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action.

The Notice of Intent is expected to be published in the **Federal Register** on April 13, 2007. The comment period on the proposed action will extend 30 days from the date the Notice of Intent is published in the **Federal Register.**

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September 2007. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will extend 45 days from the date the EPA notice appears in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Tahoe National Forest participate at that time.

The final EIS is scheduled to be completed in January 2008. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision. Substantive comments are defined as ''comments within the scope of the proposed action, specific to the proposed action, and have a direct relationship to the proposed action, and include supporting reasons for the responsible official to consider'' (36 CFR 215.2). Submission of substantive comments is a prerequisite for eligibility to appeal under the 36 CFR part 215 regulations.

Comments Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: April 5, 2007.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 07–1779 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Counties Payments Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Counties Payments Committee has scheduled a meeting to discuss how it will provide Congress with the information specified in Section 320 of the Fiscal Year 2001 Interior and Related Agencies Appropriations Act. The meeting is open to the public.

DATES: The meeting will be held on April 30, 2007. The meeting will consist of a business session from 9 a.m. until 12 p.m., which will be open to public attendance, followed by a session open to public participation from 1 p.m. until 5 p.m.

ADDRESSES: The meeting will be held at the Board of Supervisors Chamber, on the 1st floor of the Coconino County Administrative Building, 219 East Cherry Lane, Flagstaff, AZ. Written comments concerning this meeting should be addressed to Randle G. Phillips, Executive Director, Forest Counties Payments Committee, P.O. Box 34718, Washington, DC 20043–4713. Comments may also be sent via e-mail to *rphillips01@fs.fed.us*, or via facsimile to (202) 273–4750.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at USDA Forest Service, Franklin Court Building, Ste. 5500W, 1099 14th Street NW., Washington, DC 20005. Visitors are encouraged to call ahead to (202) 208–6574 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randle G. Phillips, Executive Director, Forest Counties Payments Committee, at (202) 208–6574 or via e-mail at *rphillips01@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 320 of the Interior and Related Agencies Appropriations Act of 2001 created the Forest Counties Payments Committee to make recommendations to Congress on a long-term solution for making Federal payments to eligible States and counties in which Federal lands are situated. The Committee will consider the impact on eligible States and counties of revenues from the historic multiple use of Federal lands; evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands; evaluate the expenditures by counties on activities occuring on Federal lands, which are Federal responsibilities; and monitor payments and implementation of The Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106–393).

Dated: April 5, 2007.

Sally Collins,

Associate Deputy Chief, Forest Service.

[FR Doc. E7–6770 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to review 2007 projects, and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393). The meeting is open to the public.

DATES: The meeting will be held on April 24, 2007, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest, Supervisor Office, Conference Room, 1801 North First Street, Hamilton, Montana. Send written comments to Daniel Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.us.*

FOR FURTHER INFORMATION CONTACT: Daniel Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: April 4, 2007.

Barry Paulson,

Deputy Forest Supervisor.

[FR Doc. 07–1787 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS).

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the Rural Community Development Initiative (RCDI) grant program.

DATES: Comments on this notice must be received by June 11, 2007 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Dan Spieldenner, Senior Loan Specialist, Community Programs Guaranteed Loan and Processing and Servicing Division, RHS, USDA, 1400 Independence Ave., SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–9700, E-mail *Dan.Spieldenner@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative.

OMB Number: 0575–0180

Expiration Date of Approval: August 31, 2007

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

Abstract: RHS, an Agency within the USDA Rural Development mission area, will administer the RCDI grant program through their Community Facilities Division. The intent of the RCDI grant program is to develop the capacity and ability of rural area recipients to undertake projects through a program of technical assistance provided by qualified intermediary organizations. The eligible recipients are nonprofit organizations, low-income rural communities, or federally recognized Indian tribes. The intermediary may be a qualified private, nonprofit, or public (including tribal) organization. The intermediary is the applicant. The intermediary must have been organized a minimum of 3 years at the time of application. The intermediary will be

required to provide matching funds, in the form of cash or committed funding, in an amount at least equal to the RCDI grant.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.4 hours per response.

Respondents: Intermediaries and recipients.

Estimated Number of Respondents: 1,055.

Estimated Number of Responses per Respondent: 2,405.

Estimated Number of Responses: 2.3.

Estimated Total Annual Burden on Respondents: 3,389.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, at (202) 692–0035.

Comments

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

Comments may be sent to Renita Bolden, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. 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: April 4, 2007.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. E7–6775 Filed 4–10–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 13–2007)

Foreign–Trade Zone 173 Grays Harbor, Washington, Manufacturing Authority, Imperium Renewables, Inc., (Biodiesel) Aberdeen and Hoquiam, Washington

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Port of Grays Harbor, grantee of FTZ 173, requesting manufacturing authority on behalf of Imperium Renewables, Inc. (IRI), within FTZ 173 in Aberdeen and Hoquiam, Washington. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 4, 2007.

The IRI facility (70 employees) is located within Site 1 of FTZ 173, at the Port of Grays Harbor Industrial area. The facility will be used for the manufacturing and storage of biodiesel and glycerin (HTS duty rate ranges from duty–free- 4.6%). Components and materials sourced from abroad (representing 70% of the value of the finished product) include: soybean oil, sunflower oil, safflower oil, cottonseed oil, rape oil, colza oil, mustard oil and rapeseed oil (duty rate ranges from 1.7¢+3.4% to 19.1%).

FTZ procedures would exempt IRI from customs duty payments on the foreign components used in export production. The company anticipates that some 20 percent of the plant's shipments will be exported. On its domestic sales, IRI would be able to choose the duty rate during customs entry procedures that apply to finished biodiesel and the glycerin byproduct for the foreign inputs noted above. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 11, 2007. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 25, 2007.

A copy of the application will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, 2601 Fourth Avenue, Suite 310, Seattle, WA 98121.

Office of the Executive Secretary, Foreign–Trade Zones Board, U.S. Department of Commerce, Room 2814B, 1401 Constitution Ave. NW, Washington, DC 20230.

For further information, contact Elizabeth Whiteman at Elizabeth__Whiteman@ita.doc.gov or (202) 482–0473.

Dated: April 4, 2007.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–6872 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Stephen Lincoln

In the Matter of: Stephen Lincoln, 21 Durrell Drive, Rugby, Warwickshire, England CV22 7GW; Respondent.

Order Relating to Stephen Lincoln

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

[1] The violations charged occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 CFR parts 730–774 (2003)). The 2006 Regulations govern the procedural aspects of the case.

[2] Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA'').

Charge 1 15 CFR 764.2(a)—Reexporting Item to Iran Without the Required U.S. Government Authorization

On one occasion in June 2003, Lincoln engaged in conduct prohibited by the Regulations by reexporting a system containing specialized software (''system''), an item subject to the Regulations (ECCN [3] 5D002), from the United Kingdom (''UK'') to Iran without the required U.S. Government authorization. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the system to Iran required a license from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian Transactions Regulations [4] maintained by the Office of Foreign Assets Control, U.S. Department of the Treasury (''OFAC''), require OFAC authorization. The reexport of the system to Iran required authorization from OFAC pursuant to 31 CFR. Part 560.205, and no such authorization was obtained. In failing to obtain such authorization from OFAC, Lincoln committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 CFR 764.2(e)—Unlicensed Transfer of Item to Iran Knowing That a Violation of the Regulations Would Occur

In connection with the reexport transaction described above, Lincoln transferred a system, an item subject to the Regulations, from the UK to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Lincoln knew that the system required authorization from the U.S. Government for reexport from the UK to Iran and that authorization for the reexport would not be obtained. Specifically, Lincoln received instructions in 2002 from Buehler United Kingdom's parent company, Buehler Limited, that items such as the system which contain specialized software could not be sold to Iran from any Buehler locations. He was also made aware that selling such items to Iran was barred by U.S. law. In so doing, Lincoln committed one violation of Section 764.2(e) of the Regulations.

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

Whereas, I have approved the terms of such Settlement Agreement;

It Is Therefore Ordered:

First, that for a period of seven years from the date of entry of this Order, Stephen Lincoln, 21 Durrell Drive, Rugby, Warwickshire, England CV22 7GW, and when acting for or on behalf of Lincoln, his representatives, assigns, or agents (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Entered this 2nd day of April 2007.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 07–1778 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–DT–M

[3] ''ECCN'' refers to ''Export Control Classification Number.'' *See* Supp. 1 to 15 CFR 774.

[4] The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 CFR part 560 (2006).

DEPARTMENT OF COMMERCE

International Trade Administration

(A–485–806)

Certain Hot–Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On October 23, 2006, the Department of Commerce published the preliminary results of the antidumping duty administrative review of certain

hot–rolled carbon steel flat products from Romania. This review covers sales of subject merchandise made by Mittal Steel Galati S.A. The period of review is November 1, 2004, through October 31, 2005. Based on our analysis of comments received, we have made a change to our calculations; this change did not result in a change to the margin for Mittal Steel Galati S.A. Therefore, these final results are the same as our preliminary results. The final results are listed below in the ''Final Results of Review'' section.

EFFECTIVE DATE: April 11, 2007.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4033 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 23, 2006, the Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review of certain hot–rolled carbon steel flat products from Romania (*Certain Hot–Rolled Carbon Steel Flat Products From Romania: Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 62082 (October 23, 2006) (*Preliminary Results*)). The review covers one manufacturer, Mittal Steel Galati S.A. (MS Galati).

We invited parties to comment on our preliminary results of review. MS Galati and one domestic interested party, Nucor Corporation, filed case briefs on January 19, 2007. MS Galati and a domestic interested party, United States Steel Corporation, filed rebuttal briefs on January 26, 2007. Nucor Corporation filed a rebuttal brief on January 29, 2007.

On February 26, 2007, the Department published in the **Federal Register** a notice extending the due date for the final results of the administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products from Romania until no later than April 6, 2007 (*Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from Romania*, 72 FR 8348 (February 26, 2007)).

Scope of the Order

The products covered by the order are certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight length, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

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

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, 2.25 percent of silicon, 1.00 percent of copper, 0.50 percent of aluminum, 1.25 percent of chromium, 0.30 percent of cobalt, 0.40 percent of lead, 1.25 percent of nickel, 0.30 percent of tungsten, 0.10 percent of molybdenum, 0.10 percent of niobium, 0.15 percent of vanadium or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order: Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506); Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher; ball bearing steels, as defined in the HTSUS; tool steels, as defined in the HTSUS; silicomanganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent; ASTM specifications A710 and A736; USS abrasion–resistant steels (USS AR 400, USS AR 500); all products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507); non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is classified in the HTSUS at the following subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled carbon steel flat products covered by this order, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel, may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the ''Issues and

Decision Memorandum'' (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated April 6, 2007, which is hereby adopted by this notice. A list of the issues which the parties have raised and to which we have responded is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and corresponding recommendations in this public memorandum which is on file in Import Administration's Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum is available on the Internet at http://ia ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made a methodological change to our calculations as reflected in our *Preliminary Results* (see Comment 2 of the Decision Memorandum).

Final Results of Review

As a result of our review, we determine that the following weighted–average percentage margin exists for the period November 1, 2004, through October 31, 2005:

Manufacturer/exporter	Margin (percent)
Mittal Steel Galati S.A.	0.00

Assessment Rate

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We intend to issue appropriate assessment instructions directly to CBP 15 days after publication of these final results of review. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific assessment rate. We will direct CBP to liquidate the appropriate entries at this rate. See 19 CFR 351.212(b)(1).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by the company included in these final results of review for which the reviewed company did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash–Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a) of the Tariff Act of 1930, as amended (the Act): (1) the cash–deposit rate for MS Galati will be 0.00 percent; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash–deposit rate will continue to be the company–specific rate published in the prior segment of the proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding but the manufacturer is, the cash–deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the most recent segment of the proceeding in which that manufacturer participated; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash–deposit rate will be the ''All Others'' rate made effective on June 14, 2005, which is 17.84 percent. See *Certain Hot–Rolled Carbon Steel Flat Products From Romania: Final Results of Antidumping Duty Administrative Review*, 70 FR 34448, 34450 (June 14, 2005). These deposit requirements shall remain in effect until further notice.

Notification

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

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 4, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

Appendix

Comment 1: Date of Sale
Comment 2: Sales and Cost Data from Different Periods
Comment 3: Calculation of Credit Expense

Comment 4: Offsetting of Negative Margins

[FR Doc. E7–6862 Filed 4–10–07; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–825)

Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Amended Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: April 11, 2007.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay or Dara Iserson, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780 or (202) 482–4052.

SUPPLEMENTARY INFORMATION:

Amendment to Final Results of Review

In accordance with section 735(a) of the Tariff Act of 1930, as amended, (the Act), on March 6, 2007, the Department of Commerce (the Department) published its notice of final results of the administrative review of the antidumping duty order on oil country tubular goods (''OCTG''), other than drill pipe, from Korea for the period (''POR'') August 1, 2004 through July 31, 2005. *See Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Final Results of Antidumping Duty Administrative Review*, 72 FR 9224

(March 6, 2007) and accompanying Issues and Decision Memorandum, dated February 27, 2007 (*Final Results*). On March 5, 2007, we extended the deadline to submit ministerial error allegations for SeAH Steel Corporation (SeAH) and United States Steel Corporation (Petitioner) to March 6, 2007. *See* Letter to Kaye Scholer, LLP from Thomas Gilgunn, Program Manager, Office of AD/CVD Operations VI, Import Administration, dated March 5, 2007; *see* also Letter to Skadden, Arps, Slate, Meagher & Flom, LLP from Thomas Gilgunn, Program Manager, Office of AD/CVD Operations VI, Import Administration, dated March 5, 2007. On March 6, 2007, SeAH and Petitioner filed timely allegations that the Department made ministerial errors in the *Final Results*. On March 12, 2007, Petitioner filed a timely response to the ministerial error allegations submitted by SeAH.

After analyzing parties' comments, we have determined, in accordance with 19 CFR 351.224(e), that we made the following ministerial errors in our calculations performed for the final results of review: (1) we incorrectly merged and matched SeAH's further manufacturing cost file with its U.S. sales database; (2) we incorrectly double–counted the general and administrative expenses incurred by SeAH's affiliate, Pusan Pipe America, Inc., in connection to the further manufacturing performed in the United States; (3) when conducting the cost test, we incorrectly compared the comparison market net price (CMNPRICOP) (inclusive of comparison market indirect selling expenses), to the average cost of production, (which excludes indirect selling expenses); and 4) we assigned incorrect values to U.S. inland freight from port to warehouse (INLFPWU) on SeAH's U.S. sales that were both further manufactured and sent directly from Korea to unaffiliated customers in the United States.

For a detailed discussion of the ministerial errors listed above, as well as the Department's analysis, *see Memorandum from Scott Lindsay, Senior Analyst, AD/CVD Operations, Office 6, to Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6, concerning Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Analysis of Ministerial Error Allegations for SeAH Steel Corporation*, dated April 5, 2007, a public version of which is on file in the Central Records Unit, Room B–099 of the main Commerce Building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of administrative review of OCTG from Korea for the period August 1, 2004 through July 31, 2005. As a result of correcting the ministerial errors discussed above, SeAH's weighted–average dumping margin changed from 4.73 percent to 0.77 percent. For the remaining respondents, the weighted–average dumping margin remains the same. *See Final Results*.

Continuation of Suspension of Liquidation

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated importer–specific assessment rates by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise. Where the importer–specific assessment rate is above de minimis, we will instruct CBP to assess antidumping duties on that importer's entries of subject merchandise. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Furthermore, the following deposit requirements will be effective upon publication of these amended final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of administrative review, as provided by section 751(a) of the Act: (1) for subject merchandise exported by SeAH, the cash deposit rate will be 0.77 percent; (2) for Husteel Corporation, Ltd., the cash deposit rate will remain as established in the *Final Results*. These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This determination is issued and published pursuant to sections 751(h) and 771(i)(1) of the Act.

Dated: April 4, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–6868 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032707C]

Endangered Species; Permit No. 1589

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

ACTION: Notice; Issuance of a permit.

SUMMARY: Notice is hereby given that The Riverbanks Zoo and Garden, 500 Wildlife Parkway, P.O. Box 1060, Columbia, SC 29202–1060 [Charles Scott Pfaff, Responsible Party] has been issued a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of enhancement.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and

Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Jennifer Skidmore at (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

On September 20, 2006, notice was published in the **Federal Register** (71 FR 54979) that a request for an enhancement permit to take shortnose sturgeon had been submitted by the above mentioned organization. The Riverbanks Zoo and Garden will obtain and maintain a total of eight captive-bred, non-releaseable adult shortnose sturgeon. This sturgeon display will be used to increase public awareness of the shortnose sturgeon and its status. The proposed project will educate the public on shortnose sturgeon life history and the reasons for the species decline. The proposed project to display endangered cultured shortnose sturgeon responds directly to a recommendation from the NMFS recovery plan outline for this species. The permit is issued for 5 years.

Issuance of this permit, as required by the ESA, was based on a finding that the permit (1) Was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 5, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–6880 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030107C]

Atlantic Highly Migratory Species; Exempted Fishing Permits; Extension of Time for Comments

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

ACTION: Notice; request for an exempted fishing permit; extension of comment period.

SUMMARY: This notice extends the comment period for 14 days on an March 13, 2007, **Federal Register** notice regarding a request for an exempted fishing permit (EFP) to collect fisheries data in the East Florida Coast and Charleston Bump closed areas. Due to extensive comments received from the public, the Agency is extending the comment period to allow for additional comments to be received prior to making a determination on the application.

DATES: The deadline for the receipt of written comments on the March 13, 2007 (72 FR 11327), notice has been extended from April 11 to no later than 5 p.m. on April 25, 2007.

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

• E–mail: *SF1.030107C@noaa.gov*. Include in the subject line the following identifier: ''I.D. 030107C''.

• Mail: Michael Clark, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope ''Comments on EFP Application.''

• Fax: (301)713–1917

FOR FURTHER INFORMATION CONTACT: Michael Clark, by phone: (301) 713–2347; fax: (301)713–1917.

SUPPLEMENTARY INFORMATION: EFPs are requested and issued under the authority of the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (1601 U.S.C. 1801 *et seq.*), which regulate fishing activities of tunas, swordfish, sharks, and billfish. Regulations at 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activity with respect to Atlantic Highly Migratory Species (HMS).

On March 13, 2007 (72 FR 11327), NMFS published a notice announcing receipt of an application to conduct fishing activities from Pelagic Longline (PLL) vessels in portions of the East Florida Coast and Charleston Bump closed areas. The objectives of this EFP request have not changed. The applicant states that these data would provide information on circle hook performance, target and bycatch species composition, and allow comparative analysis with historical pelagic longline logbook and observer program data. The applicant states that the goals of these fishing activities are to determine if implementation of new pelagic longline fishing practices justify the resumption of PLL fishing in the selected areas and to catch more of the United States swordfish quota. The proposed activities would occur in Federal waters of the Atlantic Ocean off Florida and South Carolina from the date of issuance through April 2008. NMFS is extending the original comment period by 14 days because of the extensive number of comments received from the public to date and to ensure that all comments may be considered prior to the Agency making a determination on the application.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: April 6, 2007.

Alan D. Risenhoover,

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

[FR Doc. E7–6876 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040407B]

Marine Mammals; File No. 877–1903

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

ACTION: Notice; denial of permit.

SUMMARY: Notice is hereby given that a request for a scientific research permit submitted by Daniela Maldini, Okeanis, PO Box 818, Pacific Grove, CA 93950 has been denied.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly or Amy Hapeman, (301)713–2289.

SUPPLEMENTARY INFORMATION: On February 5, 2007, a notice was published in the **Federal Register** (72 FR 5273) that an application had been filed by the above named individual. The requested permit has been denied subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) and because the application did not meet permit issuance criteria set forth in the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requested a 5–year permit to biopsy bottlenose dolphins (Tursiops truncatus) in waters off California, specifically Monterey Bay and the Santa Monica Basin. The proposed research objectives were to investigate stock structure, demographics, and contaminant loads of coastal and offshore populations.

Dated: April 4, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–6875 Filed 4–10–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Commission on Care for America's Returning Wounded Warriors

AGENCY: Department of Defense.

ACTION: Notice; correction.

SUMMARY: On Friday, April 6, 2007 (72 FR 17136), the Department of Defense published a notice of a meeting of the President's Commission on Care for America's Returning Wounded Warriors. This notice makes corrections to that notice as follows:

FOR FURTHER INFORMATION ON SUBMITTING STATEMENTS CONTACT: Col. Denise Dailey

or Adrianne Holloway, toll free (Change from previous submission) 877–588–2035 or Fax statements (703) 588–2046.

13 April 2007

(Change from previous submission)

On 13 April a Sub-Committee of the Commission will visit Bethesda, Naval Hospital. All other information remains unchanged.

Dated: April 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–1790 Filed 4–10–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of Secretary of Defense

[DoD–2007–OS–0034]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on May 11, 2007, unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Boulevard, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a of the Privacy Act of 1974, as amended, was submitted on April 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

L.M. Bynum

Alternative OSD Federal Register Liaison Officer, Department of Defense, Alternate OSD Federal Register Liaison Officer, DoD.

LDIA 06–0002

SYSTEM NAME:

Department of Defense Intelligence Information Systems Access, Authorization, and Control Records.

SYSTEM LOCATION:

Defense Intelligence Agency, 200 Madill Boulevard, Washington, DC 20340–0001.

Western Regional Service Center—Colorado Springs, CO 80914–3808.

European Regional Service Center—Stuggart, Germany/Molesworth, UK.

Northeast Regional Service Center—Washington, DC 20340–3342.

Southeastern Regional Service Center—Tampa, FL 33621–5101.

Pacific Regional Service Center—Honolulu, HI 96861–4031.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense Intelligence Information Systems users who hold a current clearance in the Defense Intelligence Agency (DIA) approved Security Files Database and have a record in the Department of Defense Intelligence Information Systems Full Service Directory (FSD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's full name, Social Security Number (SSN), citizenship papers, employee type (civilian, military, or contractor), organization name, and clearance level.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended; the Intelligence Reform and Terrorism Prevention Act of 2004; 5 U.S.C. 301, Departmental Regulations; E.O. 12333, United States Intelligence Activities, as amended; and E.O. 9397 (SSN).

PURPOSE(S):

To control and track access to Defense Intelligence Agency's networks, computer systems, and databases. The records may also be used by law enforcement officials to identify the occurrence of and assist in the prevention of computer misuse and/or crime. Statistical data, with all personal identifiers removed, may be used by management for system efficiency, workload calculation, or reporting purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552(b)(3) as follows:

The DoD 'Blanket Routine Uses' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to record is limited to person(s) responsible for servicing the records in the performance of their official duties and who are properly screened and cleared for a need-to-know.

RETENTION AND DISPOSAL:

Data will be maintained as long as users maintain an active clearance in a DIA Security System. Once their clearance is no longer active, their entry will be removed automatically.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager, Research and Engineering Office, Defense Intelligence Agency, 200 Mac Dill Boulevard, Washington, DC 20340–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Intelligence Agency, FOIA Office (DAN–1A), 200 Madill Boulevard, Washington, DC 20340–5100.

Requests should contain individual's full name, Social Security Number (SSN), current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Intelligence Agency, FOIA Office (DAN–1A), 200 Madill Boulevard, Washington, DC 20340–5100.

Requests should contain individual's full name, Social Security Number (SSN), current address, and telephone number.

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12–12 ''Defense Intelligence Agency Privacy Program''; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From subject individuals and DIA's security files and Human Resources Management System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 07–1791 Filed 4–10–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2007–OS–0033]

U.S. Court of Appeals for the Armed Forces Proposed Rules Changes

ACTION: Notice of Proposed Changes to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces the following proposed changes to Rule 24 of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces for public notice and comment. New language is in bold print. Language to be deleted is marked by a strikethrough.

DATES: Comments on the proposed changes must be received by May 2007.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Following the instructions for submitting comments.

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number of Regulatory Information Number (RIN) for the **Federal Register** document. The general policy for comments and other submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: William A. DeCicco, Clerk of the Court, telephone (202) 761–1448, ext. 600.

Dated: April 5, 2007.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, DoD.

BILLING CODE 5001–06–M

PROPOSED CHANGES TO RULE 24

Rule 24. Briefs

Proposed Change 1:

Amend the Paragraph "Statement of Facts" in Rule 24(a):

[Set forth a concise statement of the facts of the case material to the issue or issues presented, including ~~specific page~~ references to each relevant portion of the record of trial. Answers may adopt the appellant's or petitioner's statement of facts if there is no dispute, may state additional facts, or, if there is a dispute, may restate the facts as they appear from the appellee's or respondent's viewpoint. The repetition of uncontroverted matters is not desired.]

Proposed Change 2:

Add the following Paragraph after "Statement of Facts" in Rule 24(a):

References to the Record

[References to the parts of the record contained in the Joint Appendix filed with the appellant's brief must be to the pages of the Joint Appendix.]

Proposed Change 3:

Delete "Appendix" paragraph in Rule 24(a) and insert new Rule 24(f):

(f) Joint Appendix. The appellant or petitioner shall be responsible for filing eight copies of a Joint Appendix, which shall be a separate document filed contemporaneously with the brief.

(1) Contents. The Joint Appendix shall contain:

(A) a copy of the decision of the Court of Criminal Appeals;
(B) copies of unpublished opinions cited in the brief of the appellant or petitioner; the appellee or respondent will include copies of unpublished opinions cited in its brief as an attachment to its brief;
(C) relevant extracts of rules and regulations;
(D) relevant docket entries from the proceeding below;
(E) relevant portions of the pleadings, charges, findings from the proceeding below; and
(F) other parts of the record of trial to which the parties wish to direct the Court's attention set out in chronological order.

(2) Format. The Joint Appendix will be produced on 8 ½ by 11 inch white paper, be bound in a manner that is secure and does not obscure the text, and will permit the contents to lie reasonably flat when open. The cover must be white and contain the caption of the case and docket number. The cover shall be followed by a table of contents. Pages in the Joint Appendix shall be sequentially numbered in a manner that does not obscure any page numbers reflected in the record of trial. If the Joint Appendix consists of less than 100 pages, it may be reproduced by single-sided or double-sided copying. If it consists of 100 pages or more, the Joint Appendix shall use double-sided copying.

Classified material or matters under seal that are to be included in a Joint Appendix shall be submitted in a separate volume, clearly designated as containing classified or sealed material. Classified material will be handled in accordance with Rule 12.

(3) Deadline. Unless otherwise ordered by the Court, the Joint Appendix shall be filed contemporaneously with the brief of the appellant or petitioner. If a cross-appeal is filed, a single Joint Appendix shall be filed for both appeals subject to a briefing schedule established by the Clerk. The appellant or petitioner shall serve one copy on opposing counsel.

(4) Agreement and Designation. The parties are encouraged to agree on the contents of the Joint Appendix. In the absence of agreement, the appellant or petitioner must, within 10 days of the order granting the petition, the

filing of a certificate for review by a Judge Advocate General, the notice of the docketing of a mandatory review case, or the filing of a petition for new trial, petition for extraordinary relief or a writ appeal petition, serve on the appellee or respondent a designation of the issues to be raised on appeal and of the parts of the record to be included in the Joint Appendix. The appellee or respondent may, within 10 days after receiving the designation, serve on the appellant or petitioner a designation of the additional parts of the record to draw to the attention of the Court. The appellant or petitioner must include the parts designated by the appellee or respondent in the Joint Appendix. The parties must avoid engaging in unnecessary designation of parts of the record because unnecessary designation is wasteful, and the entire record is available to the Court. In the event a cross-appeal is filed, the deadlines for designations shall be established by the Clerk.

(5) Dispensing With Requirement. The Court, on its own motion or that of a party, may dispense with the requirement for a Joint Appendix and may permit a case to be heard on the original record with any copies of the record or parts thereof that the Court may order the parties to file.

Comment: The purpose of requiring a more comprehensive appendix prepared cooperatively by the parties and designated as a "Joint Appendix" is to assist the Court in identifying and readily obtaining the pages of the record of trial that are relevant to the issue or issues before the Court. Presently, without the requirement of a Joint Appendix, the chambers of each Judge of the Court is required to identify and then make its own copy of what each chambers believes are the relevant pages of the record, often without the familiarity with the case necessary to make this decision effectively. Counsel, however, have the familiarity with the record to prepare a Joint Appendix that will enable the Judges to commence efficient review when briefs are distributed. This change should enable each chambers to commence review sooner and more effectively.

It is anticipated that these changes to Rule 24, if adopted, will take effect on or about July 1, 2007, except that the provisions of Rule 24(f)(1)(D)-(F) will be delayed one year, to take effect on or about July 1, 2008. The

Court anticipates that during the one-year period from July 1, 2007, to July 1, 2008, it will require the appellant or petitioner to comply with Rule 24(f)(1)(D)-(F) by including in the Joint Appendix a list of the items stated in those sections to which the appellant or petitioner wishes to direct the Court's attention. During the same period, the appellee or respondent shall include with its brief a list of the items in those sections to which the appellee or respondent wishes to direct the Court's attention. The interim procedures should give counsel adequate time to take the necessary steps to allow for full compliance one year later.

[FR Doc. 07–1789 Filed 4–10–07; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket No. USN–2007–0023]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Navy proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on May 11, 2007, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available: from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on April 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: April 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01070–13

SYSTEM NAME:

Navy-Marine Corps Mobilization Processing System (NMCMPS).

SYSTEM LOCATION:

Primary: Navy Personnel Command (PERS–460, 5720 Integrity Drive, Millington, TN 38055–3120.

Secondary: Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy active duty and reserve personnel in support of Navy and/or Marine Corps operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, Social Security numbers (SSN), rate/rank, record of assignments, addresses, telephone numbers, qualifications, command information, Unit Identification Code, Navy Enlisted Code/Designator, date reported to command, date departed command, training, and military orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN).

PURPOSE(S):

To identify and assign Navy-Marine Corps members in worldwide locations to provide support for contingency operations, mobilize and demobilize reserve members, and submit requirements for personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records of information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of system of record notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Name, Social Security Number (SSN), and login ID and password.

SAFEGUARDS:

Computer facilities and terminals are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Access to records is controlled by the use of need-to-know ''roles'' in the application. Information is password protected. Paper records downloaded from the database are labeled by default properly IAW level of classification and ''For Official Use Only''.

RETENTION AND DISPOSAL:

Temporary records are maintained in the file until obsolete or the member is separated from the Navy. Permanent records are submitted to Navy Personnel Command to be entered into the Electronic Military Personnel Records System (EMPRS). After 62 years of the service member's obligated service, these permanent records are transferred to the National Archives and Records Administration.

SYSTEM(S) MANAGER AND ADDRESS:

Policy Official: Commander, Navy Personnel Command (PERS–46), 5720 Integrity Drive, Millington, TN 38055–3120.

Record Holder: Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities. Organizational elements of the Department of the Navy.

Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx*.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information bout themselves is contained in this system of records should address written inquiries to:

Active duty and Reserve Navy members may address their request at Web site *https://nmcmps.bol.navy.mil* by using the Bureau of Naval Personnel Online login ID and password.

Inquiries regarding permanent records of all active duty and reserve members (except Individual Ready Reserve (IRR), former members discharged, deceased, or retired since 1995, should be addressed to the Commander, Navy Personnel Command (PERS–312), 5720 Integrity Drive, Millington, TN 38055–3120.

Inquiries regarding records of former members discharged, deceased, or retired before 1995 should be addressed to the Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MD 63132–5100 or at Web site *http://www.archives.gov/veterans/military-service-records/get-service-records.html* to obtain guidance on how to access records.

Inquiries regarding field service records of current members should be addressed to the Personnel Office or Personnel Support Detachment providing administrative support to the local activity to which the individual is assigned. Official mailing addresses are published in the Standard Navy Distribution List available at *http://neds.daps.dla.mil/default.aspx.*

Requests should contain individual's name, Social Security Number (SSN)

and/or enlisted service number/officer file number, rank/rate, designator, military status, address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to:

Active duty and Reserve navy members may address their request at Web site *https://nmcmps.bol.navy.mil* by suing the Bureau of Naval Personnel Online login ID and password.

Inquiries regarding permanent records of all active duty and reserve members (except Individual Ready Research (IRR)), former members discharged, deceased, or retired since 1995, should be addressed to the Commander, Navy Personnel Command (PERS–312), 5720 Integrity Drive, Millington, TN 38055–3120.

Inquiries regarding records of former members discharged, deceased, or retired before 1995 should be addressed to the Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132–5100 or at Web site *http://www.archives.gov/veterans/military-service-records/get-service-records.html* to obtain guidance on how to access records.

Inquiries regarding field service records of current members should be addressed to the Personnel Office or Personnel Support Detachment providing administrative support to the local activity to which the individual is assigned. Official mailing addresses are published in the Standard Navy Distribution List available at *http://neds.daps.dla.mil/default.aspx*.

Requests should contain individual's name, Social Security Number (SSN) and/or enlisted service number/officer file number, rank/rate, designator, military status, address, and signature.

CONTESTING RECORD PROCEDURES:

The navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, official message traffic, general correspondence concerning the individual, official military records, official records of professional qualifications.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 07–1792 Filed 4–10–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

[USD–2007–0024]

Privacy Act of 1974 System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a (r) of the Privacy Act of 1974, as amended, was submitted on April 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427)

Dated: April 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM01640–1

SYSTEM NAME:

Individual Correctional Records (September 21, 2006, 71 FR 55170).

CHANGES:

* * * * *

SYSTEM NAME:

Delete ''Correctional'' and replace with ''Confinement''.

SYSTEM LOCATION:

In para 1, line 2: delete ''Correctional Facilities'' and replace with ''Brigs.''

In para 2, lines 6 and 7, delete ''Personnel Readiness and Community Support (N153)'' and replace with ''Corrections and Programs (N1353),''.

Categories of individuals covered by the system: In line 2, delete ''facility'' and replace with ''brig''.

In line 4, delete ''three days''.

At end of entry, add ''(CCU).''

CATEGORIES OF RECORDS IN THE SYSTEM:

In line 4, delete ''confinement'' and replace with ''brigs''.

In line 5, after ''facilities'' delete ''-'' and replace with ''to include:''.

At end of entry, add ''Also includes information regarding DNA sample collection.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In line 2, before ''42'' add ''10 U.S.C. 1565.''

In line 6, delete ''Procedures'' and replace with ''Program''.

PURPOSE(S):

In line 12, after the word ''parole;'' add ''to verify, record, and capture documentation of DNA collection;''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Policy Officials: Director, Corrections and Programs (N1353), 5720 Integrity Drive, Millington, TN 38055–6000 and Commandant of the Marine Corps (Code PSL Corrections), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Record Holders: United States Navy Brigs and United States Marine Corps Brigs.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Corrections and Programs (N1353), 5720 Integrity Drive, Millington, TN 38055–6000.''

NOTIFICATION PROCEDURE:

In line 5, delete ''Naval'' and replace with ''Navy''.

In lines 11 thru 13, delete ''Personal Readiness and Community Support (N153),'' and replace with ''Corrections and Programs (N1353).''

RECORD ACCESS PROCEDURES:

In line 5, delete ''Naval'' and replace with ''Navy''.

In lines 11 thru 13, delete ''Personal Readiness and Community Support (N153),'' and replace with ''Corrections and Programs (N1353).''

* * * * *

NM01640–1

SYSTEM NAME:

Individual Confinement Records.

SYSTEM LOCATION:

United States Navy Brigs and United States Marine Corps Brigs.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* and/or may be obtained from the Director, Corrections and Programs (N1353), Navy Personnel Command, 5720 Integrity Drive, Millington, TN 38055–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members confined in a Naval Brig as a result of or pending trial by courts-martial; military members sentenced to bread and water or diminished rations; and military members awarded correctional custody to be served in a correctional custody unit (CCU).

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents related to the administration of individual prisoners in the Department of the Navy confinement and correctional custody facilities to include courts martial orders; release orders; brigs orders; medical examiners' reports; requests and receipts for health and comfort supplies; reports and recommendations relative to disciplinary actions; clothing and equipment records; mail and visiting lists and records; personal history records; individual prisoner utilization records; requests for interview; initial interview; spot reports; prisoner identification records; parolee agreements; inspection record of prisoner in segregation; personal funds records; valuables and property record; daily report of prisoners received and released; admission classification summary; social history clemency recommendations and actions; parole recommendations and actions; restoration recommendations and actions; psychiatric, psychological, and sociological reports; certificate of parole; certificate of release from parole; requests to transfer prisoners; records showing name, grade, Social Security Number (SSN), sex, education, sentence, offense(s), sentence computation, organization, ethnic group, discharge awarded, length of unauthorized absence, number and type of prior punishments, length of service, and type release; reports showing legal status, offense charged, and length of time confined; and sex offender acknowledgment/notification letters; and names, addresses, and telephone numbers of victims/witnesses. Also includes information regarding DNA sample collection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 951; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 1565; 42 U.S.C. 10601 et seq., Victim's Rights and Restitution Act of 1990 as implemented by DoD Instruction 1030.2, Victim and Witness Assistance Program; and E.O. 9397 (SSN).

PURPOSE(S):

To determine initial custody classification; to determine when custody grade change is appropriate; to gauge member's adjustment to confinement or correctional custody; to identify areas of particular concern to prisoners and personnel in correctional custody; to determine work assignment; to determine educational needs; serves as the basis for correctional treatment; serves as a basis for recommendations for clemency, restoration, and parole; to verify, record, and capture documentation of DNA collection; and to notify victims/witnesses of crime of related activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, and local law enforcement and investigative agencies for investigation and possible criminal prosecution, civil court actions or regulatory order.

To state and local authorities for purposes of providing (1) notification that individuals, who have been convicted of a specified sex offense or an offense against a victim who is a minor, will be residing in the state upon release from military confinement and (2) information about the individual for inclusion in a state operated sex offender registry.

To confinement/correctional system agencies for use in the administration of correctional programs to include custody classification; employment, training and educational assignments; treatment programs; clemency, restoration to duty, and parole actions; verifications concerning military offenders or military criminal records, employment records and social histories.

To victims and witnesses of crime for the purpose of notifying them of date of parole or clemency hearing and other release related activities.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computerized database.

RETRIEVABILITY:

Name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Computer database is password protected.

RETENTION AND DISPOSAL:

Two years after a prisoner is released or transferred from a brig or expiration of parole, prisoner paper records are transferred to the appropriate Federal Records Center. Automated records are maintained indefinitely.

Federal Records Center Atlanta, 1557 St. Joseph Avenue, East Point, GA 30344–2533 has records from ashore brigs under the area consideration of the Commander, U.S. Atlantic Fleet; Commander, U.S. Naval Forces Europe; Commander, Naval Education and Training, afloat brig on Atlantic Fleet ships, and Naval Consolidated Brig, Charleston.

Federal Records Center Los Angeles, 2400 Avila Road, P.O. Box 6719, Laguna Niegel, CA 92607–6719 has records for ashore brigs under the area consideration of the Commander, U.S. Pacific Fleet; afloat brigs on Pacific Fleet ships; and Naval Consolidated Brig, Miramar.

Records of prisoners accompany their transfer to other facilities.

Victim/Witness Records are destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Officials: Director, Corrections and Programs (N1353), 5720 Integrity Drive, Millington, TN 38055–6000 and Commandant of the Marine Corps (Code PSL Corrections), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Record Holders: United States Navy Brigs and United States Marine Corps Brigs.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is

available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Correction and Programs (N1353), 5720 Integrity Drive, Millington, TN 38055–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the United States Navy Brig or United States Marine Corps Brig where incarcerated.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Corrections and Programs (N1353), 5720 Integrity Drive, Millington, TN 38055–6000.

Requests should include full name, Social Security Number (SSN), and must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the United States Navy Brig or United States Marine Corps Brig where incarcerated.

Official mailing addresses are published in the Standard Navy Distribution List (SNDL) that is available at *http://doni.daps.dla.mil/sndl.aspx* or may be obtained from the Director, Corrections and Programs (N1353), 5720 Integrity Drive, Millington, TN 38055–6000.

Requests should include full name, Social Security Number (SSN), and must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Military personnel records; military financial and medical records; military and civilian investigative and law enforcement agencies; court-martial proceedings; records of non-judicial administrative proceedings; United States military commanders; staff members and cadre supply information relative to service member's conduct or duty performance; and other individuals or organizations which may supply information relevant to the purpose for which this system was designed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 07–1793 Filed 4–10–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 11, 2007.

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 Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

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

Dated: April 6, 2007.

James Hyler,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Title I—Improving the Academic Achievement of the Disadvantaged; Individuals with Disabilities Education Act (IDEA)—Assistance to States for the Education of Children with Disabilities.

Frequency: Annually.

Affected Public: State, Local, or Tribal government, SEAs, or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 60.

Burden Hours: 4,019.

Abstract: The Secretary has amended the regulations governing programs administered under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), and the regulations governing programs under Part B of the Individuals with Disabilities Education Act (IDEA). The regulations implement statutory provisions regarding State educational agency (SEA), local educational agency (LEA), and school accountability for the academic achievement of students with disabilities. The information collections associated with these regulations relate to three changes in activities already required under Title I, Part A of the ESEA for SEAs that voluntarily choose to take advantage of the additional flexibility offered by the amended regulations. This flexibility is for SEAs that choose to develop modified academic achievement standards and assessments that measure achievement based on those standards for a small group of students with disabilities. The new regulations also affect the

information collections for the IDEA as the form to be used for reporting school year 2007–08 assessment for students with disabilities has been revised. It now includes one additional category for students with disabilities who are assessed through an alternate assessment based on modified academic achievement standards.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3308. 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 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. E7–6842 Filed 4–10–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Mentoring Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.184B.

Dates: Applications Available: April 11, 2007. Deadline for Transmittal of Applications: May 23, 2007. Deadline for Intergovernmental Review: July 23, 2007.

Eligible Applicants: (1) Local educational agencies (LEAs); (2) Nonprofit, community-based organizations (CBOs), which may include faith-based organizations; and (3) A partnership between an LEA and a non-profit CBO.

Note: The Secretary is limiting eligibility under the Mentoring Programs grant competition (CFDA Number 84.184B) to applicants that do not currently have an active grant under this program. For the purpose of this eligibility requirement, a grant is considered active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds (71 FR 70369).

Estimated Available Funds: $29,347,000. Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2007 and in subsequent years from the rank-ordered list of unfunded applications from this competition.

Estimated Range of Awards: $100,000–$200,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 198.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides assistance to promote mentoring programs for children with greatest need that: (1) Assist these children in receiving support and guidance from a mentor; (2) improve the academic performance of the children; (3) improve interpersonal relationships between the children and their peers, teachers, other adults, and family members; (4) reduce the dropout rate of the children; and (5) reduce juvenile delinquency and involvement in gangs by the children.

Priorities: The following absolute and competitive preference priorities are from the notice of final priorities, requirements, and selection criteria for this program published in the **Federal Register** on May 28, 2004 (69 FR 30794).

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:

This priority supports projects that address the academic and social needs of children with the greatest need through school-based mentoring programs and activities and provide these students with mentors. These programs and activities must serve children with the greatest need in one or more grades 4 through 8 living in rural areas, high-crime areas, or troubled home environments, or who attend schools with violence problems.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that address the following priority. Under 34 CFR 75.105(c)(2)(i) we will award an additional five points to an application that meets this priority.

This priority is:

We will award five additional points to a consortium of eligible applicants that includes either: (a) At least one local educational agency (LEA) and at least one community-based organization (CBO) that is not a school and that provides services to youth and families in the community; or (b) at least one private school that qualifies as a nonprofit CBO and at least one other CBO that is not a school and that provides services to youth and families in the community.

The consortium must designate one member of the group to apply for the grant, unless the consortium is itself eligible as a partnership between a LEA and a nonprofit CBO.

To receive this competitive preference, the applicant must clearly identify the agencies that comprise the consortium and must include a detailed plan of their working relationship and of the activities that each member will perform, including a project budget that reflects the contractual disbursements to the members of the consortium. For the purpose of this priority, a ''consortium'' means a group application in accordance with the provisions of 34 CFR 75.127 through 75.129.

Program Authority: 20 U.S.C. 7140.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, 99 and 299. (b) The notice of final priorities, requirements, and selection criteria published in the **Federal Register** on May 28, 2004 (69 FR 30794).

(c) The notice of final eligibility requirement for the Office of Safe and Drug-Free Schools discretionary grant programs published in the **Federal Register** on December 4, 2006 (71 FR 70369).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $29,347,000. Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2007 and in subsequent years from the rank-ordered list of unfunded applications from this competition.

Estimated Range of Awards: $100,000–$200,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 198.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) LEAs; (2) Non-profit CBOs, which may include faith-based organizations; and (3) A partnership between an LEA and a non-profit CBO.

Note: The Secretary is limiting eligibility under the Mentoring Programs grant competition (CFDA Number 84.184B) to applicants that do not currently have an active grant under this program. For the purpose of this eligibility requirement, a grant is considered active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds (71 FR 70369).

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

3. *Other:*

(a) To be eligible for funding, an applicant must include in its application an assurance that it will: (1) Establish clear, measurable performance goals; and (2) collect and report to the Department data related to the established Government Performance and Results Act (GPRA) performance indicators for the Mentoring Programs grant competition. We will reject any application that does not contain this assurance.

(b) To be eligible for funding, each CBO must include in its application an assurance that: (a) It is an eligible applicant under the definitions provided in the application package; (b) timely and meaningful consultation with an LEA or private school has taken place during the design and/or development of the proposed program; (c) LEA or private school staff will participate in the identification and referral of students to the CBO's proposed program; and (d) the LEA or private school will participate in the collection of data related to the established GPRA performance measures for the Mentoring Programs grant competition.

4. *Equitable Participation by Private School Children and Teachers:* LEAs are required to provide for the equitable participation of private school children, their teachers, and other educational personnel in private schools located in areas served by the grant recipient.

In order to ensure that grant program activities address the needs of private school children, the LEA must engage in timely and meaningful consultation with private school officials during the design and development of the program. This consultation must take place before any decision is made that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate.

In order to ensure equitable participation of private school children, teachers, and other educational personnel, the LEA must consult with private school officials on issues such as: How children's needs will be identified; what services will be offered; how and where the services will be provided; who will provide the services; how the services will be assessed and how the results of assessment will be used to improve those services; the amount of funds available for services; the size and scope of the services to be provided; how and when decisions about the delivery of services will be made; and the provision of contract services through potential third-party providers.

See Section 9501 of the Elementary and Secondary Education Act of 1965, as reauthorized by the No Child Left Behind Act of 2001 (ESEA).

5. *Maintenance of Effort:* Under section 9521 of the ESEA, an LEA may receive a grant under the Mentoring Programs grant competition only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

IV. Application 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.*

You may also access the electronic version of the application at the following Web sites: *http://www.grants.gov* or *http://www.ed.gov/programs/dvpmentoring/index.html.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.184B.

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:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

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.

3. *Submission Dates and Times:*

Applications Available: April 11, 2007.

Deadline for Transmittal of Applications: May 23, 2007.

Applications for grants under the Mentoring 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: July 23, 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:* Grant funds may not be used to (1) Directly compensate mentors; (2) obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the grantee's operations; or (3) support litigation of any kind. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition 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 Governmentwide Grants.gov Apply site. The Mentoring Program, CFDA Number 84.184B, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide 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 Mentoring Programs 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 84.184, not 84.184B).

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 84.184B), 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 84.184B), 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 84.184B), 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. 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 from the notice of final priorities, requirements, and selection criteria published in the **Federal Register** on May 28, 2004 (69 FR 30794) and 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 annual performance report and final performance report. At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. We also may require more frequent performance reports in accordance with 34 CFR 75.720(c).

4. *Performance Measures:* We have identified the following key GPRA performance measures for assessing the effectiveness of this program: (1) The percentage of student/mentor matches that are sustained for a period of twelve months; (2) The percentage of mentored students who demonstrate improvement in core academic subjects as measured by grade point average after 12 months; and (3) The percentage of mentored students whose number of unexcused absences from school decreases.

VII. Agency Contacts

For Further Information Contact: Bryan Williams, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E226, Washington, DC 20202–6450. Telephone: (202) 260-2391 or by e-mail: *bryan.williams@ed.gov.*

Earl Myers, Jr., U.S. Department of Education, 400 Maryland Avenue, 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.

You may also view this document in text or PDF at the following site:*http://www.ed.gov/programs/dvpmentoring/applicant.html.*

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: April 6, 2007.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E7–6863 Filed 4–10–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–153]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on March 30, 2007, ANR Pipeline Company (ANR) tendered for filing and approval a negotiated rate agreement between ANR and Nexen Marketing U.S.A., Inc. (Nexen). The service agreement is being filed as a negotiated rate because the parties have agreed to a fixed rate for the term of the contract.

ANR requests that the Commission accept and approve the subject filing to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6811 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–154]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on April 2, 2007, ANR Pipeline Company (ANR) tendered for filing and approval a negotiated rate agreement between ANR and Tenaska Gas Storage, L.L.C. (Tenaska). The service agreement is being filed as a negotiated rate because the parties have agreed to a fixed rate for the term of the contract.

ANR requests that the Commission accept and approve the subject filing to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6812 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–155]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on April 2, 2007, ANR Pipeline Company (ANR) tendered for filing and approval a negotiated rate agreement between ANR and Oneok Energy Services Company, L.P. (Oneok). The service agreement is being filed as a negotiated rate because the parties have agreed to a fixed reservation rate for the term of the contract. ANR requests that the Commission accept and approve the subject filing to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or

before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6813 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–156]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on April 2, 2007, ANR Pipeline Company (ANR) tendered for filing and approval a negotiated rate agreement between ANR and BP Canada Energy Marketing Corporation (BP). The service agreement is being filed as a negotiated rate because the parties have agreed to fixed rates for the term of the contract.

ANR requests that the Commission accept and approve the subject filing to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6814 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–157]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on April 2, 2007, ANR Pipeline Company (ANR) tendered for filing and approval a negotiated rate agreement between ANR and Nicor Gas Company. The service agreement is being filed as a negotiated rate because the parties have agreed to fixed rates for the term of the contract.

ANR requests that the Commission accept and approve the subject filing to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6815 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–15–003]

Caledonia Energy Partners, L.L.C.; Notice of Compliance Filing

April 5, 2007.

Take notice that on March 30, 2007, Caledonia Energy Partners, L.L.C. (Caledonia) submitted a compliance filing pursuant to the Commission order issued on April 19, 2005 in Docket Nos. CP05–15–000, CP05–16–000, and CP05–17–000, Caledonia Energy Partners, L.L.C., 111 FERC ¶ 61,095 (2005). Caledonia has included along with its

compliance filing, as non-conforming agreements, several ''Consents and Agreements'' relating to each Firm Storage Service Agreement to which Caledonia is a party.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 12, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6793 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–170]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on March 30, 2007, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing and approval two negotiated rate agreements, one between CEGT and Laclede Energy Resources, Inc., and one with CEGT and Tenaska Gas Storage, LLC. CEGT has entered into these agreements to provide parking service to these shippers under Rate Schedule PHS to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6804 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–171]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate Filing

April 5, 2007.

Take notice that on March 30, 2007, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing and approval three negotiated rate agreements between CEGT and Oneok Energy Services Company, LP. CEGT has entered into these agreements to provide parking service to this shipper under Rate Schedule PHS to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6805 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–171–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

April 5, 2007.

Take notice that on March 30, 2007, Columbia Gas Transmission Corporation (Columbia) its compliance filing in response to the Commission's March 15, 2007 order in the above-reference proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6803 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–080]

Dominion Transmission, Inc.; Notice of Tariff Filing

April 5, 2007.

Take notice that on March 30, 2007, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Eighth Revised Sheet No. 1405, to become effective April 1, 2007.

DTI states that the purpose of this filing is to report a name and contract number change to a previously negotiated rate agreement.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6807 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL04–49–002]

Entergy Services, Inc.; Notice of Compliance Filing

April 5, 2007.

Take notice that on March 30, 2007, Entergy Services, Inc., acting as agent for Entergy Louisiana, LLC filed an interconnection and operating agreement with Quachita Power, LLC pursuant to the Federal Energy Regulatory Commission's February 28, 2007 Order.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 20, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6795 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–100]

Gas Transmission Northwest Corporation; Notice of Negotiated Rate

April 5, 2007.

Take notice that on March 30, 2007, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheets, to become effective April 1, 2007:

Eleventh Revised Sheet No. 24
Second Revised Sheet No. 25
Third Revised Sheet No. 26
Fifth Revised Sheet No. 27
Second Revised Sheet No. 28
First Revised Sheet No. 29
First Revised Sheet No. 29A
First Revised Sheet No. 29B

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6816 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2458–004, ER02–2458–005 and ER02–2458–006]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

April 5, 2007.

Take notice that on April 4, 2007, Wolverine Power Supply Cooperative, Inc. filed a response to the Commission's March 30, 2007 letter order.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 13, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6796 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–109–000]

National Fuel Gas Supply Corporation; Notice of Application

April 5, 2007.

Take notice that on March 19, 2007, National Fuel Gas Supply Corporation (National Fuel), 6363 Main Street, Williamsville, New York 14221, filed in Docket No. CP07–109–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon one (1) 150 horsepower compressor unit (Unit #5) at the Lamont Compressor Station (Lamont), along with appurtenances, located in Elk County, Pennsylvania, all as more fully set forth in the application.

The application is on file with Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* and follow the instructions or call toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions concerning this request may be directed to David W. Reitz, Deputy General Counsel for National Fuel, 6363 Main Street, Williamsville, New York 14221, or call (716) 857–7949.

National Fuel proposes to retire and remove Unit #5 and its appurtenant facilities, which include the suction and discharge lines, control and exhaust equipment, the integral engine-compressor unit itself and other support equipment. National Fuel avers that the concrete foundation would be left in place and that all aboveground gas and service piping would be disconnected

and removed back to the station gas headers.

National Fuel states that the unit is obsolete and has become burdensome to maintain and operate. National Fuel contends that parts to repair the unit are not readily available, and therefore the unit is very expensive to maintain. National Fuel maintains that the remaining units at Lamont would provide the necessary compression to meet National Fuel's current service obligations.

National Fuel asserts that no interruption, reduction, or termination of natural gas service, to any of its shippers, would occur as a result of the proposed abandonment.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronically filings of comments, protests and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov* under the ''e-Filing'' link.

Comment Date: April 26, 2007.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6794 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–331–018]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

April 5, 2007.

Take notice that on March 30, 2007, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Seventh Revised Sheet No. 12 and FT Service Agreement #F11097, between National Fuel and Duferco Farrell Corporation, together with Amendment No. I thereto. The tariff sheet has a proposed effective date of April 1, 2007.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6806 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–130]

Natural Gas Pipeline Company of America; Notice of Tariff Filing and Negotiated Rate

April 5, 2007.

Take notice that on March 30, 2007, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective May 1, 2007:

Second Revised Sheet No. 26F, Original Sheet No. 414A.10.

Natural states that copies of this filing are being mailed to all parties set out on the Commission's official service list.

Any person desiring to intervene or protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as

appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6808 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–131]

Natural Gas Pipeline Company of America; Notice of Tariff Filing and Negotiated Rate

April 5, 2007.

Take notice that on March 30, 2007, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective May 1, 2007:

Fifth Revised Sheet No. 26C,
First Revised Sheet Nos. 26C.01 and 26C.02,
Original Sheet Nos. 26C.03—26C.06,
Original Sheet No. 414A.09.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6809 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–132]

Natural Gas Pipeline Company of America; Notice of Tariff Filing and Negotiated Rates

April 5, 2007.

Take notice that on March 30, 2007, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective May 1, 2007

Second Revised Sheet No. 26V,
Original Sheet No. 414A.07.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6810 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–022]

Rockies Express Pipeline LLC; Notice of Compliance Filing

April 5, 2007.

Take notice that on March 30, 2007, Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective April 1, 2007:

Eighteenth Revised Sheet No. 22,
Second Revised Sheet No. 22A,
Eighth Revised Sheet No. 24,
First Revised Sheet No. 24A.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6800 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–024]

Rockies Express Pipeline LLC; Notice of Compliance Filing

April 5, 2007.

Take notice that on April 2, 2007, Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Nineteenth Revised Sheet No. 22, to be effective April 3, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6801 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–205–014]

Southern Natural Gas Company; Notice of Negotiated Rate Tariff Filing

April 5, 2007.

Take notice that on March 30, 2007, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, Eleventh Revised Sheet No. 23, with an effective date of May 1, 2007.

Southern states that the filing is being filed to reflect two negotiated rate transactions are between BG Energy Merchants LLC and Florida Power Corporation d/b/a Progress Energy Florida, Inc.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6799 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–151–001]

Tennessee Gas Pipeline Company; Notice of Compliance Tariff Filing

April 5, 2007.

Take notice that on March 30, 2007, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute Fourth Revised Sheet No. 368, with an effective date of March 1, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6802 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG07–15–000; EG07–27–000; EG07–28–000l; EG07–30–000; EG07–31–000; EG07–32–000; EG07–33–000; EG07–34–000; EG07–35–000]

Twin Buttes Wind LLC; Grays Harbor Energy LLC; Les Power Partners, LLC; Whirlwind Energy, LLC; Diablo Winds, LLC; Osceola Windpower, LLC; Airtricity Sand Bluff Wind Farm; LLC; Airtricity Forest Creek Wind Farm, LLC; Dillion Wind LLC; Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

April 4, 2007.

Take notice that during the month of March 2007, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6677 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

April 5, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–57–000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company, submits a response to the Commission March 15, 2007 Request for Information.

Filed Date: 03/30/2007.

Accession Number: 20070330–5142.

Comment Date: 5 p.m. Eastern Time on Thursday, April 12, 2007.

Docket Numbers: EC07–74–000.

Applicants: Toledo Edison Company; FirstEnergy Generation Corp.; Cleveland Electric Illuminating Company.

Description: FirstEnergy Generation Corp. *et al* submit an application for authorization to acquire and lease existing generation and request for waivers of filing requirements etc.

Filed Date: 04/02/2007.

Accession Number: 20070404–0168.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–1179–009.

Applicants: Berkshire Power Company, LLC.

Description: Berkshire Power Company LLC submits updated refund report in compliance with FERC's March 1, 2007 Order.

Filed Date: 04/02/2007.

Accession Number: 20070404–0090.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER07–696–000.

Applicants: Carolina Power & Light Company.

Description: Carolina Power & Light Co dba Progress Energy Carolinas, Inc submits its Fourth Revised Sheet 3 *et al*, to FERC Gas Tariff, Third Revised Volume 3.

Filed Date: 04/03/2007.

Accession Number: 20070404–0059.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–697–000.

Applicants: Florida Power Corporation.

Description: Florida Power Corporation dba Progress Energy Florida Inc submits its Fourth Revised Sheet 3 *et al* in compliance with Commission's Order issued 4/25/06 and 11/30/06.

Filed Date: 04/03/2007.

Accession Number: 20070404–0058.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–699–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revisions to the chart in Schedule 2 of its OATT to incorporate the revised revenue requirements for Calumet Energy Team, LLC etc.

Filed Date: 04/02/2007.

Accession Number: 20070404–0103.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER07–700–000.

Applicants: Bangor Hydro-Electric Company.

Description: Bangor Hydro-Electric Company submits proposed revisions to its local service schedule set forth as Schedule 21–BHE in the ISO New England Inc.'s TMS Tariff.

Filed Date: 04/02/2007.

Accession Number: 20070404–0105.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER07–701–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc.

submits proposed revisions to its Open Access Transmission and Energy Markets Tariff, in order to add Schedule 10–ERO etc.

Filed Date: 04/02/2007.

Accession Number: 20070404–0106.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER07–702–000.

Applicants: Central Maine Power Company.

Description: Central Maine Power Company submits proposed revisions to the formula rates for local transmission services set forth in Schedule 21–CMP of the ISO New England Inc. Transmission, Markets and Services Tariff.

Filed Date: 04/03/2007.

Accession Number: 20070404–0065.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–703–000.

Applicants: Florida Power & Light Company New England Division.

Description: Florida Power & Light Co. submits First Revised Sheet 4246 *et al* to modify Schedule 21–FPL–NED of Section II of ISO-New England's Transmission Markets and Services Tariff.

Filed Date: 04/02/2007.

Accession Number: 20070404–0108.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER07–704–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed Service Agreement for Network Integration Transmission Service under the PJM OATT pursuant to section 205 of the FPA.

Filed Date: 04/02/2007.

Accession Number: 20070404–0107.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER07–705–000.

Applicants: GSG, LLC.

Description: GSG, LLC submits its application for order accepting market-based rate tariff, granting authorizations and blanket authority and waiving certain requirements.

Filed Date: 04/03/2007.

Accession Number: 20070404–0109.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–706–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits First Revised Sheet 14 *et al* to FERC Electric Tariff, First Revised Volume 5 pursuant to section 205 of the Federal Power Act and Part 35 etc.

Filed Date: 04/03/2007.

Accession Number: 20070404–0087.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–707–000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corp, agent for AEP Texas North Company *et al* submits the Restated and Amended Interconnection Agreement with LCRA Transmission Services Corp.

Filed Date: 04/03/2007.

Accession Number: 20070404–0167.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–708–000.

Applicants: Twin Cities Power, L.L.C.

Description: Twin Cities Power LLC notifies FERC that, as a result of a name change, it has succeeded Twin Cities Power Generation LLC & Twin Cities Power Generation, LLC, originally received market-based rate authorization.

Filed Date: 04/03/2007.

Accession Number: 20070404–0086.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–709–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits Exhibit I as revised version of the LGIA with the required designation to their 11/13/06 filing pursuant to Order 614.

Filed Date: 04/03/2007.

Accession Number: 20070404–0085.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Take notice that the Commission received the following electric securities filings.

Docket Numbers: ES07–29–000.

Applicants: Old Dominion Electric Cooperative, Inc.

Description: Old Dominion Electric Cooperative, Inc. submits an application for Extension of Authorization to Guarantee Obligations under section 204 of FPA and for exemption from the Commission's Competitive Bidding Requirement Under sec. 34.2.

Filed Date: 04/03/2007.

Accession Number: 20070403–5068.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6817 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 5, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license for a change in water surface elevation limits for the upper reservoir.

b. *Project No.:* 2485–041.

c. *Date Filed:* March 13, 2007.

d. *Applicant:* First Light Hydro Generating Company.

e. *Name of Project:* Northfield Mountain Pumped Storage.

f. *Location:* The project is located on the east side of the Connecticut River, in the towns of Northfield and Erving, in Franklin County, Massachusetts. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. John Campbell, Senior Vice President, First Light Power Resources Services LLC, 301 Hammer Mill Road, Rocky Hill, Connecticut 06067, (860) 810–1711 with copies of all correspondence and communications to:

Mr. John Howard, Station Manager, Northfield Mountain Station, 99 Millers Falls Road, Northfield, Massachusetts 01360, (413) 659–4489; and

James B. Vasile, Davis Wright Termaine LLP, 1500 K Street, NW., Suite 450, Washington, DC 20005–1272. (202) 508–6662.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula Sarma at (202) 502–6190 or *vedula.sarma@ferc.gov.*

j. *Deadline for filing comments and/or motions:* May 4, 2007.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* First Light Hydro Generating Company (FLHGC) seeks authorization to change the upper reservoir normal maximum and minimum water surface elevations from 1,000.5 and 938 feet to 1,004.5 and 947 feet, respectively, for its currently normal daily generation of approximately 8,475 megawatt hours (MWh). FLHGC said it needs the elevation change in order to establish an emergency storage band at the upper reservoir between 920 feet and 938 feet to allow for additional generation of 1,990 MWh when ISO–NE is operating under emergency conditions.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions To Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6797 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 5, 2007.

a. *Type of Application:* Applications for Amendment of Licenses to Reflect Settlement Agreement.

b. *Project Numbers:* P–2528–084, P–2527–064, P–2194–032, P–2531–058, P–2529–086, P–2530–044.

c. *Date Filed:* March 27, 2007.

d. *Applicant:* FPL Energy Maine Hydro LLC (licensee).

e. *Name of Projects:* Cataract Project (FERC No. 2528), Skelton Project (FERC No. 2527), Bar Mills Project (FERC No. 2194), West Buxton Project (FERC No. 2531), Bonny Eagle Project (FERC No. 2529), Hiram Project (FERC No. 2530).

f. *Location:* The projects are located on the Saco River in Cumberland, Oxford, and York Counties, ME.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Frank Dunlap, FPL Energy Maine Hydro LLC, 160 Capitol Street, Suite 8, Augusta, ME 04330, phone (207) 623–8417.

i. *FERC Contact:* Any questions on this notice should be addressed to Blake Condo at (202) 502–8914, or e-mail address: *blake.condo@ferc.gov.*

j. *Deadline for filing comments and/or motions:* May 4, 2007.

k. *Description of Request:* The licensee filed a 2000–2005 Final Assessment Report-Saco River Fish Passage (assessment), along with a comprehensive Settlement Agreement (agreement), concerning fish passage and fisheries management at the above referenced projects on the Saco River in southern Maine. The assessment is required by the existing licenses for the projects. The agreement incorporates fish passage and other fisheries management measures recommended by the assessment. The agreement is between the licensee, U.S. Fish and Wildlife Service, National Marine

Fisheries Service, Maine Atlantic Salmon Commission, Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources, Saco River Salmon Club, Atlantic Salmon Federation, and Maine Council of the Atlantic Salmon Federation. The agreement concerns the resolution of various disputes and issues regarding both upstream and downstream fish passage and management including license article 403 for the Cataract Project, articles 405, 406, and 407 for the Skelton Project, article 404 for the West Buxton Project, articles 404, 405, 406, 407, and 408 for the Bonny Eagle Project. The Bar Mills Project is currently undergoing re-licensing and any new provisions as described in the agreement will be evaluated under the current re-licensing proceeding. The agreement will provide a new schedule for completion of various fish passages, effectiveness studies on the new fishways, fishway operating procedures, American eel management measures, anadromous fish management measures, and additional studies within the Saco River. The licensee requests that the Commission amend the above license articles to reflect the provisions of the agreement. Additionally the agreement proposes provisions not contained in any license article for the Hiram Project and requests that those provisions be added to the license.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers (P–2528, P–2527, P–2194, P–2531, P–2529, and P–2530). All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–6798 Filed 4–10–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8297–7]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address a lawsuit filed by Our Children's Earth Foundation (''OCE'') in the Ninth Circuit Court of Appeals: *Our Children's Earth Foundation* v. *EPA,* No. 05–73130 (9th Cir.). OCE filed a petition for judicial review of EPA's March 15, 2005 denial in part of OCE's administrative petition regarding a CAA Title V permit issued by the Bay Area Air Quality Management District (''BAAQMD'') to the Tesoro petroleum refinery in the San Francisco Bay Area. Under the terms of the proposed settlement agreement, EPA shall determine whether to send the draft letter attached to this settlement agreement at Attachment A.

DATES: Written comments on the proposed settlement agreement must be received by May 11, 2007.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2007–0288, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, *Mailcode:* 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Susan Stahle, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone:* (202) 564–1272; fax number (202) 564–5603; e-mail address: *Stahle.Susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement

On March 15, 2005, EPA denied in part OCE's administrative petition to object to a CAA Title V permit issued by the BAAQMD to the Tesoro petroleum refinery in the San Francisco Bay Area. Under the settlement agreement, if EPA sends the letter (Attachment A) to BAAQMD, OCE shall dismiss with prejudice its petition for review. However, if EPA does not send the letter, but instead withdraws from the settlement agreement, OCE's sole

remedy shall be to reactivate the litigation.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement

A. How Can I Get a Copy of the Settlement?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2007–0288) contains a copy of the proposed settlement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 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 OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use the *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: April 4, 2007.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E7–6839 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0038; FRL–8123–3]

Computer Science Corporation, Yoh IT and Apex System; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Computer Science Corporation and its subcontractor, Yoh IT and Apex Systems in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Computer Science Corporation and its subcontractor, Yoh IT and Apex System, have been awarded a contract to perform work for OPP, and access to this information will enable Computer Science Corporation and its subcontractor, Yoh IT and Apex System, to fulfill the obligations of the contract.

DATES: Computer Science Corporation and its subcontractor, Yoh IT and Apex System, will be given access to this information on or before April 16, 2007.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0038 Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under Contract No. *GS00T99ALD0204*-Task Order *T0002AJM039*, Computer Science Corporation and its subcontractor, Yoh IT and Apex System, will provide operational and management support for the EPA Wide Area Network, web and application hosting, enterprise server, email and Lotus Notes applications, distributed systems, and workload reporting. CSC will also supply security and security incident response reporting for EPA.

The OPP has determined that access by Computer Science Corporation and its subcontractor, Yoh IT and Apex System, to information on all pesticide chemicals may be necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Computer Science Corporation and its subcontractor, Yoh IT and Apex System prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Computer Science Corporation and its subcontractor, Yoh IT and Apex System, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Computer Science Corporation and its subcontractor, Yoh IT and Apex System Staff, until the requirements in this document have been fully satisfied. Records of information provided to Computer Science Corporation and its subcontractor, Yoh IT and Apex System Staff, will be maintained by EPA Project Officers for this contract. All information supplied to Computer Science Corporation and its subcontractor, Yoh IT and Apex System Staff, by EPA for use in connection with this contract will be returned to EPA when Computer Science Corporation and its subcontractor, Yoh IT and Apex System Staff, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: April 3, 2007.

Robert Forrest,

Acting Director, Office of Pesticide Programs.

[FR Doc. E7–6725 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8297–5]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee and the Small Community Advisory Subcommittee (SCAS), Steering Committee, and workgroups for Water, Indicators, Regulations, Watersheds and Coastlines, and Solid Waste/Environmental Reclamation will meet on May 2–4, 2007 in Washington, DC The SCAS will meet on May 3, 11:30 a.m.–1:30 p.m. for a strategic planning session.

The Committee will hear comments from the public between 3:30 p.m.–4 p.m. on Thursday, May 3. Each individual or organization wishing to address the LGAC meeting will be allowed a maximum of five minutes to present their point of view. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis, and the total period for comments may be extended, if the number of requests for appearances require it.

This is an open meeting and all interested persons are invited to attend. LGAC meeting minutes and Subcommittee summary notes will be available after the meeting online or by written request to the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. Seating will be on a first come, first serve basis.

DATES: The Local Government Advisory Committee plenary session will be held from 8:30 a.m.–11:30 a.m. May 3 and reconvene at 10 a.m. on May 4.

ADDRESSES: The LGAC meeting will be held at the Four Points by Sheraton, located at 1201 K Street NW. The Steering Committee meeting will be held on May 2, 1:30 p.m.–4 p.m.on Wednesday, May 2, at EPA Headquarters, 1200 Pennsylvania Avenue, NW., Ariel Rios North, conference room 3530, Washington, DC.

Additional information can be obtained by e-mailing the DFO at *Eargle.Frances@epa.gov*, or in written correspondence at 1200 Pennsylvania Avenue, NW., (1301A), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Contact Frances Eargle, DFO for the Local Government Advisory Committee (LGAC) at (202) 564–3115 or Anna Raymond, DFO for the Small Community Advisory Subcommittee (SCAS) at (202) 564–3663.

Information on Services for the Disability: For information on access or services for individuals with disability, please contact Frances Eargle at (202) 564–3115. To request accommodation of a disability, please contact Frances Eargle, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 29, 2007.

Frances Eargle,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. E7–6840 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0954; FRL–8122–6]

Dikegulac Sodium Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide dikegulac sodium, and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the dikegulac sodium Docket. Dikegulac sodium is a plant growth regulator used in greenhouses, nurseries, and on landscape trees, ornamentals, and plants. EPA has reviewed dikegulac sodium through a modified low risk version of the Agency's public participation process with a public comment period following the publication of the RED. Through this process, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before June 11, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0954, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0954. 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 available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Jacqueline Guerry, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (215) 814-2184; fax number: (215) 814-3113; e-mail address: *guerry.jacqueline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, dikegulac sodium, under section 4(g)(2)(A) of FIFRA. Dikegulac sodium is a plant growth regulator used in greenhouses, nurseries, and on landscape trees, ornamentals, and plants. Dikegulac sodium is applied either as a foliar spray or by pressure injection. Landscape use sites include parks, school campuses, city streets, and similar recreational, institutional, or industrial areas. EPA has determined that the data base to support reregistration is substantially complete and that products containing dikegulac sodium are eligible for reregistration, provided that the risk mitigation measures outlined in the RED document are adopted, and label amendments are made to reflect these measures. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing dikegulac sodium.

EPA is applying the principles of public participation to all pesticides undergoing reregistration. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its low volume/minor uses, low human health and ecological risks, and other factors, the low risk pesticide dikegulac sodium was reviewed through a modified version of the Agency's public participation process.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the dikegulac sodium RED for public comment. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for dikegulac sodium. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the dikegulac sodium RED will be implemented as it is now presented.

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

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 2, 2007.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–6627 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2004–0380; FRL–8123–6]

Dimethipin; Notice of Receipt of Request to Voluntarily Cancel Dimethipin Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of a request by the registrant to voluntarily cancel the registrations of all products containing the pesticide dimethipin. The request would terminate dimethipin use in or on cotton as a defoliant and plant growth regulator. The request would terminate the last dimethipin products registered for use in the United States. EPA intends to grant this request at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the request, or unless the registrant withdraws its request within this period. Upon acceptance of this request, any sale, distribution, or use of products listed in this notice will be permitted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before May 11, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2004–0380, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2004–0380. 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 available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Amaris Johnson, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-9542; fax number: (703) 308-7070; e-mail address: *johnson.amaris@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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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 on the Receipt of Requests to Cancel Registrations

This notice announces receipt by EPA of a written request dated February 16, 2007 from Chemtura, the sole registrant of dimethipin, to cancel all remaining dimethipin product registrations. Dimethipin is a cotton defoliant. A list of the affected products is provided in Table 1. This request will result in the termination of the last dimethipin products registered in the United States.

Unless comments are received to the contrary, the Agency intends to allow Chemtura to continue to sell and distribute dimethipin products for two years from the date of the cancellation order. Existing stocks may be sold or used until depleted.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of a request from a registrant to cancel all remaining dimethipin product registrations. The affected products and the registrant making the request are identified in Table 1 and Table 2 of this unit.

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

Chemtura, the dimethipin registrant has requested that EPA waive the 180–day comment period. EPA will provide a 30–day comment period on the proposed request.

Unless the request is withdrawn by the registrant within 30 days of publication of this notice, or if the Agency determines that there are substantive comments that warrant further review of this request, an order

will be issued canceling the affected registrations.

TABLE 1.—DIMETHIPIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Company
400-432	Harvade Technical	Chemtura
400-155	Harvade-5F	Chemtura
400-398	Harvade-25F	Chemtura
400-505	Harvade-4198SC	Chemtura

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table 1 of this unit.

TABLE 2.—REGISTRANT REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
400	Chemtura 199 Benson Road Middlebury, CT 06749

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Procedures for Withdrawal of Request and Considerations for Reregistration of Dimethipin

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before May 11, 2007. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to this request for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1: The registrant will be allowed to sell and distribute the subject products for 2 years from the date that the cancellations are made final. In addition, existing stocks of dimethipin products may be sold or used until they are depleted.

If the request for voluntary cancellation is granted as discussed above, the Agency intends to issue a cancellation order that will allow persons other than the registrant to continue to sell and/or use existing stocks of cancelled products until such stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled product. The order will specifically prohibit any use of existing stocks that is not consistent with such previously approved labeling. If, as the Agency currently intends, the final cancellation order contains the existing stocks provision just described, the order will be sent only to the affected registrant of the cancelled products. If the Agency determines that the final cancellation order should contain existing stocks provisions different than the ones just described, the Agency will publish the cancellation order in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 4, 2007.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–6846 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0811; FRL–8122–2]

Pesticide Products; Registration Application for a New Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product that proposes new uses for certain of its active ingredients pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before May 11, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0811, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0811. 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 available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: *greenway.denise@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Submitting CBI.* Do not submit this information to EPA through 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:

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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.

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v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Application

EPA received an application as follows to register a pesticide product that proposes new uses for certain of its active ingredients. This notice of receipt of this application pursuant to the provisions of section 3(c)(4) of FIFRA does not imply a decision by the Agency on the application.

A. Product Proposing the New Use/Changed Use Pattern for Certain of the Active Ingredients

File Symbol: 75771–R. *Applicant*: Ticks or Mosquitoes, LLC, 905 S. Kingshighway, Sikeston, MO 63801. *Product name*: Biter Fighter(™). *Product type*: Biochemical insect attractant. *Active ingredients*: Sodium bicarbonate, urea, and calcium lactate at 63.61%, 11.20% and 25.19%, respectively. *Proposal classification/Use*: None. An attractant used in insect traps.

B. Description of the New Use/Changed Use Pattern Represented by the Above-mentioned Proposed Product Registration Application

In the **Federal Register** of November 1, 2006 (71 FR 64266) (FRL–8097–1), EPA issued a notice pursuant to section 3(c)(4) of FIFRA, as amended, announcing receipt of the above-mentioned application to register a pesticide product because it contains a new active ingredient not included in any currently registered products. The new active ingredient that was the subject of the November 1, 2006 notice is calcium lactate. This follow up notice is being issued because the same proposed pesticide product (i.e., EPA File Symbol 75771–R) contains two other active ingredients, sodium bicarbonate and urea, whose inclusion in this proposed insect attractant product represents a new use/changed use pattern for both, as well as the first public health claim(s) for both. In light of the fact that this was not highlighted in the November 1, 2006 notice, issuance of this notice is required pursuant to FIFRA section 3(c)(4).

List of Subjects

Environmental protection, Pesticides and pest.

Dated: March 30, 2007.

Janet L. Andersen,

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

[FR Doc. E7–6622 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0177; FRL–8121–7]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 56228–EUP–GI from the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) requesting an experimental use permit (EUP) for the mammalian gonadotropin releasing hormone (GnRH). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before May 11, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0177 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–2007–0177. 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.

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FOR FURTHER INFORMATION CONTACT: Joanne Edwards, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6736; e-mail address: *edwards.joanne@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 persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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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

The USDA's APHIS is applying for an EUP for the use of GonaCon™ Immunocontraceptive Vaccine, containing the active ingredient GnRH, to investigate the efficacy of reproductive control in fallow deer (*Dama dama*) at Point Reyes National Seashore in Marin County, CA. There are 90,000 acres in the park, although the treated area will be much less than this. Total quantity of active ingredient to be used is two pounds (70 pounds of the formulated product). The proposed period of shipment/use is July-August 2007.

III. What Action is the Agency Taking?

Following the review of the USDA APHIS application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

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

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 30, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–6850 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2007-0037; FRL-8121-4]

Pesticide Registration Review; New Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before June 11, 2007.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

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

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

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

Instructions: Direct your comments to the assigned docket ID number listed in the table in Unit III.A. for the pesticides you are commenting on. 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 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 available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. 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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: For information about the pesticides included in this notice, contact the specific Chemical Review Managers for these pesticides as identified in the table in Unit III.A..

For general questions on the registration review program, contact Kennan Garvey, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7106; fax number: (703) 308-8090; e-mail address: *garvey.kennan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates;

the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review published in the **Federal Register** issue of August 9, 2006, and effective on October 10, 2006 (71 FR 45719) (FRL-8080-4), you may also access this document on EPA's Internet at *http://www.epa.gov/fedrgstr/EPA-PEST/2006/August/Day-09/p12904.htm.* Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be periodically reviewed. The goal is a review of a pesticide's registration every 15 years. Under section 3(a) of FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is periodically reviewing pesticide registrations to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. The implementing regulations establishing the procedures for registration review appear at 40 CFR part 155. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Pesticide Docket ID Number	Chemical Review Managers Name, Phone Number, E-mail Address
Case 6050 Trichoderma species	EPA-HQ-OPP-2006-0245	Shanaz Bacchus, Chemist/RAL; (703) 308-8097; bacchus.shanaz@epa.gov
Case 6058 Linalool	EPA-HQ-OPP-2006-0356	Stephen Morrill, Special Assistant; (703) 308-8319; morrill.stephen@epa.gov

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- FR notices regarding any pending registration actions.
- FR notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.*

Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.
- As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 30, 2007.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–6626 Filed 4–10–07; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 98]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank (''Ex-Im Bank'') is seeking approval of the proposed information collection described below. The collection comprises certain applications and forms relating to Ex-Im Bank's insurance program. As part of its continuing effort to reduce paperwork and respondent burden, Ex-Im Bank invites the general public and other Federal Agencies to comment on the proposed information collection as required by the Paperwork Reduction Act of 1995.

SUPPLEMENTARY INFORMATION: This notice is soliciting comments from the public concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed information collection; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of collection of information on those who are to respond, including through the use of appropriated automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

DATES: Written comments should be received on or before May 11, 2007 to be assured of consideration.

ADDRESSES: Direct all comments to David Rostker, Office of Management and Budget, Office of Information and Regulatory Affairs, NEOB, Room 10202, Washington, DC 20503, (202) 395–3897. Direct all requests for information, including copies of the proposed collection of information and supporting documentation to Solomon Bush, Office of Information and Records Management, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Room 776, Washington, DC 20571, (202) 565–3353 or (800) 565–3946, x3353.

Titles and Form Numbers:

Application for Letter of Credit Insurance Policy, EIB 92–34;

Beneficiary Certificate and Agreement, EIB 92–37;

Short-Term Multi-Buyer Export Credit Insurance Policy Application, EIB 92–50;

Broker Registration Form, EIB 92–79.

OMB Number: 3048–0009.

Type of Review: Regular.

Need and Use: The information requested provides Ex-Im Bank with information necessary to determine legislatively required reasonable assurance of repayment and fulfills other statutory requirements. These forms are used in connection with Ex-Im Bank's insurance program.

Affected Public: The forms affect entities involved in Ex-Im Bank's programs supporting the export of U.S. goods and services, including exporters, banks, insurance brokers and non-profit or state and local governments acting as facilitators.

	EIB 92–34	EIB 92–37	EIB 92–50	EIB 92–79
Estimated Annual Respondents	10	10	398	50
Estimated Time Per Respondent	1 Hour	20 Minutes	1 Hour	2 Hours
Estimated Annual Burden	10 Hours	3.3 Hours	368 Hours	100 Hours
Frequency of Reporting or Use	Applications submitted one time.			

[FR Doc. 07–1798 Filed 4–10–07; 8:45 am]
BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

April 3, 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 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 May 11, 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 your all 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 Jasmeet Seehra, OMB Desk Officer, Office of Management and Budget (OMB), Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax at (202) 395–5167. If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC's 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 Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Children's Television Requests for Preemption Flexibility.

Form Number: Not applicable.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 15.

Estimated Time per Response: 10 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 150 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On September 26, 2006, the Commission adopted a Second Order on Reconsideration and Second Report and Order in MM Docket 00–167, FCC 06–143, In the Matter of Children's Television Obligations of Digital Television Broadcasters. The Second Order addressed several matters relating to the obligation of television licensees to provide educational programming for children and the obligation of television licensees and cable operators to protect children from excessive and inappropriate commercial messages. Among other things, the Second Order adopts a children's programming preemption policy. This policy requires all networks requesting preemption flexibility to file a request with the Media Bureau by August 1 of each year. The request identifies the number of preemptions the network expects, when the program will be rescheduled, whether the rescheduled time is the program's second home, and the network's plan to notify viewers of the schedule change. Preemption flexibility requests are not mandatory filings. They are requests that may be filed by networks seeking preemption flexibility.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–6624 Filed 4–10–07; 8:45 am]
BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2810]

Petitions for Reconsideration of Action in Rulemaking Proceeding

April 2, 2007.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by April 26, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of Part 97 of the Commission's Rules To Implement WRC–03 Regulations Applicable to Requirements for Operator Licenses in the Amateur Radio Service (WT Docket No. 05–235).

Number of Petitions Filed: 2.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–6623 Filed 4–10–07; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2007–N–06]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) is seeking public comments concerning a 3-year extension by the Office of Management and Budget (OMB) of the information collection entitled ''Monthly Survey of Rates and Terms on Conventional, 1-Family, Nonfarm Loans,'' commonly known as the Monthly Interest Rate Survey or MIRS. OMB has been assigned control 3069–0001, which is due to expire on July 31, 2007.

DATES: Interested persons may submit comments on or before June 11, 2007.

Comments: Submit comments only once by any of the following methods:

E-mail: comments@fhfb.gov.
Fax: 202–408–2580.
Mail/Hand Delivery: Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006, ATTENTION: Public Comments.
Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Include the following information in the subject line of your submission: Federal Housing Finance Board. Proposed Collection; Comment Request: Monthly Interest Rate Survey. 2007–N–06.

We will post all public comments we receive on this notice without change, including any personal information you provide, such as your name and address, on the Finance Board Web site at *http://www.fhfb.gov/Default.aspx?Page=93&Top=93.*

FOR FURTHER INFORMATION CONTACT: David Roderer, Senior Financial Analyst, Risk Monitoring Division, Office of Supervision, by e-mail at *rodererj@fhfb.gov*, by telephone at 202–408–2540, or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of Information Collection

The Finance Board's predecessor, the former Federal Home Loan Bank Board (FHLBB), first provided data concerning a survey of mortgage interest rates in 1963. No statutory or regulatory provision explicitly required the FHLBB to conduct the MIRS although references to the MIRS did appear in several federal and state statutes. Responsibility for conducting the MIRS was transferred to the Finance Board upon dissolution of the FHLBB in 1989. See Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Public Law 101–73, tit. IV, sec. 402(e)(3)–(4), 103 Stat. 183, codified at 12 U.S.C. 1437 note, and tit. VII, sec. 731(f)(1), (f)(2)(B), 103 Stat. 433 (Aug. 9, 1989). In 1993, the Finance Board promulgated a final rule describing the method by which it conducts the MIRS. See 58 FR 19195 (Apr. 13, 1993), codified at 12 CFR 906.3. Since its inception, the MIRS has provided the only consistent source of information on mortgage interest rates and terms and house prices for areas smaller than the entire country.

Statutory references to the MIRS include the following:

- Pursuant to their respective organic statutes, Fannie Mae and Freddie Mac use the MIRS results as the basis for the annual adjustments to the maximum dollar limits for their purchase of conventional mortgages. See 12 U.S.C. 1454(a)(2) and 1717(b)(2). The Fannie Mae and Freddie Mac limits were first tied to the MIRS by the Housing and Community Development Act of 1980. See Public Law 96–399, tit. III, sec. 313(a)–(b), 94 Stat. 1644–1645 (Oct. 8, 1980). At that time, the nearly identical statutes required Fannie Mae and Freddie Mac to base the dollar limit adjustments on ''the national average one-family house price in the monthly survey of all major lenders conducted by the [FHLBB].'' See 12 U.S.C. 1454(a)(2) and 1717(b)(2) (1989). When Congress abolished the FHLBB in 1989, it replaced the reference to the FHLBB in the Fannie Mae and Freddie Mac statutes with a reference to the Finance Board. See FIRREA, tit. VII, sec. 731(f)(1), (f)(2)(B), 103 Stat. 433.
- Also in 1989, Congress required the Chairperson of the Finance Board to take necessary actions to ensure that indices used to calculate the interest rate on adjustable rate mortgages (ARMs) remain available. See FIRREA, tit. IV, sec. 402(e)(3)–(4), 103 Stat. 183, codified at 12 U.S.C. 1437 note. At least one ARM index, known as the National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders, is derived from the MIRS data. The statute permits the Finance Board to substitute a substantially similar ARM index after notice and comment only if the new ARM index is based upon data substantially similar to that of the original ARM index and substitution of the new ARM index will result in an interest rate substantially similar to the rate in effect at the time the new ARM index replaces the existing ARM index. See 12 U.S.C. 1437 note.
- Congress indirectly connected the high cost area limits for mortgages insured by the Federal Housing Administration (FHA) of the Department of Housing and Urban Development to the MIRS in 1994 when it statutorily linked these FHA insurance limits to the purchase price limitations for Fannie Mae. See Public Law 103–327, 108 Stat. 2314 (Sept. 28, 1994), codified at 12 U.S.C. 1709(b)(2)(A)(ii).
- The Internal Revenue Service uses the MIRS data in establishing ''safe-harbor'' limitations for mortgages purchased with the proceeds of mortgage revenue bond issues. See 26 CFR 6a.103A–2(f)(5).
- Statutes in several states and U.S. territories, including California, Michigan, Minnesota, New Jersey, Wisconsin and the Virgin Islands, refer to, or rely upon, the MIRS. See, *e.g.*, Cal. Civ. Code 1916.7 and 1916.8 (mortgage rates); Iowa Code 534.205 (1995) (real estate loan practices); Mich. Comp. Laws 445.1621(d) (mortgage index rates); Minn. Stat. 92.06 (payments for state land sales); N.J. Rev. Stat. 31:1–1 (interest rates); Wis. Stat. 138.056 (variable loan rates); V.I. Code Ann. tit. 11, sec. 951 (legal rate of interest).

The Finance Board uses the information collection to produce the MIRS and for general statistical purposes and program evaluation. Economic policy makers use the MIRS data to determine trends in the mortgage markets, including interest rates, down payments, terms to maturity, terms on ARMs and initial fees and charges on mortgage loans. Other federal banking agencies use the MIRS results for research purposes. Information concerning the MIRS is regularly published on the Finance Board's Web site (*http://www.fhfb.gov/mirs*) and in press releases, in the popular trade press, and in publications of other Federal agencies.

The likely respondents include a sample of savings associations, mortgage companies, commercial banks, and savings banks. The information collection requires each respondent to complete FHFB Form 10–91 on a monthly basis.

The OMB number for the information collection is 3069–0001. The OMB clearance for the information collection expires on July 31, 2007.

B. Burden Estimate

The Finance Board estimates the total annual number of respondents at 200 with 6 responses per respondent. The estimate for the average hours per response is 30 minutes. The estimate for the total annual hour burden is 600 hours (200 respondents × 6 responses × 0.5 hours).

C. Comment Request

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: April 5, 2007.

By the Federal Housing Finance Board.

Neil R. Crowley,

Acting General Counsel.

[FR Doc. E7–6823 Filed 4–10–07; 8:45 am]

BILLING CODE 6725–01–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.: 011223–038.

Title: Transpacific Stabilization Agreement.

Parties: APL Co. PTE Ltd./American President Lines, Ltd.; CMA–CGM S.A.; COSCO Container Lines Co., Ltd.; Evergreen Line Joint Service Agreement; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Limited; and Yangming Marine Transport Corp.

Filing Party: David F. Smith, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment would add Mediterranean Shipping Company S.A. as a party to the agreement.

Agreement No.: 011928–002.

Title: Maersk Line/HLAG Slot Charter Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line and Hapag-Lloyd AG (HLAG).

Filing Party: Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment deletes North Europe and Jamaica from the geographic scope and would increase the amount of space being sold to HLAG from 150 TEUs to 340 TEUs.

Dated: April 6, 2007.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–6857 Filed 4–10–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409), and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License No.	Name/address	Date reissued
019355NF	ABAD Air, Inc., 10411 NW., 28th Street, Suite C–101, Doral, FL 33172	December 8, 2006.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–6858 Filed 4–10–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary Licenses Correction

In the OTI Applicant Notice published in the **Federal Register** on March 8, 2007 (72 FR 10532) reference to the name of the ASBCO Container Sevices Inc. is corrected to read: ''ASECO Container Services Inc.''

Dated: April 6, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–6859 Filed 4–10–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 016704F.
Name: Candice K. Blankenship.
Address: 1025 Wynngate Drive, Chesapeake, VA 23320.
Date Revoked: March 15, 2007.
Reason: Failed to maintain a valid bond.

License Number: 004664F.
Name: Cornerstone Logistics Incorporated.
Address: 1017 Grandview Drive, So. San Francisco, CA 94080.
Date Revoked: March 12, 2007.
Reason: Failed to maintain a valid bond.

License Number: 018482N.
Name: Dolphin Shipping, Inc.
Address: 600 E. Ocean Blvd., Ste. 802, Long Beach, CA 90802.
Date Revoked: March 17, 2007.
Reason: Failed to maintain a valid bond.

License Number: 019816F.
Name: Eastern Mercantile, Inc.
Address: 5232 Settlers Park Drive, Virginia Beach, VA 23464.
Date Revoked: March 17, 2007.
Reason: Failed to maintain a valid bond.

License Number: 019662NF.
Name: Hemisphere Cargo Corp. dba H Cargo Lines
Address: 10850 Northwest 21st Street, Ste. 100, Miami, FL 33172.
Date Revoked: March 17, 2007.
Reason: Failed to maintain valid bonds.

License Number: 018339NF.
Name: International Freight Logistics LLC.
Address: 28803 Flower Park Drive, Inglewood, CA 90301.
Date Revoked: April 2, 2007.
Reason: Surrendered license voluntarily.

License Number: 020480NF.
Name: New Horizon Shipping, Inc.
Address: 30251 Golden Lantern, Ste. E–#207, Laguna Niguel, CA 92677.
Date Revoked: March 13, 2007.
Reason: Surrendered license voluntarily.

License Number: 018818N.
Name: Ramses Logistics USA, Inc.
Address: 18726 S. Western Ave., Ste. 317, Gardena, CA 90248.
Date Revoked: March 17, 2007.
Reason: Failed to maintain a valid bond.

License Number: 015262N.
Name: Triton Forwarding, Inc.
Address: 3080 Bristol Street, Ste. 610, Costa Mesa, CA 92626.
Date Revoked: March 14, 2007.
Reason: Failed to maintain a valid bond.

License Number: 019351NF.
Name: YJC Global, Inc.
Address: 460 E. Carson Plaza Drive, #219, Carson, CA 90746.
Date Revoked: March 17, 2007.
Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–6853 Filed 4–10–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Rescission of Order of Revocations

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 017381NF.
Name: HPK Logistics (USA) Inc.
Address: 18042 Cortney Ct., 2nd Floor, City of Industry, CA 91748.
Order Published: FR: 02/14/07 (Volume 72, No. 30, Pg. 7038).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–6854 Filed 4–10–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

King Con Freight Management LLC, 9303 Granby Street, Norfolk, VA 23503, *Officer:* Conrad Mendoza, Owner, (Qualifying Individual).

Dynasty International Forwarding, Inc., dba Dynasty Logistics, 1601 Brummel Avenue, Elk Grove Village, IL 60007, *Officers:* Phillip A. Klaesges, President, (Qualifying Individual), Stanney Tak Hao Huang, Secretary.

Lee's International, 907 Somerset Place, Hyattsville, MD 20783, George L. Sealy, Sole Proprietor.

Wonderland International Inc., 98–12 218th Street, #5A, Jamaica, NY 11429, *Officer:* Li He, President, (Qualifying Individual).

Morales Mayo Enterprises Inc. dba Onyx Freight Forwarding, 2121 NW., 79th Avenue, Doral, FL 33122, *Officers:* Maria M. Ashby, President, (Qualifying Individual), Patricia Quintana, Vice President.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

FEPA Enterprises, Inc. dba FEPA Logistics (USA), 17010 Buffalo Peak Court, Humble, TX 77346, *Officers:* Fernando Mateu, Vice President, (Qualifying Individual), Mayelin Mateu, President.

Martin Bencher USA, LLC, 1121 Bristol Road, Mountainside, NJ 07092, *Officer:* Morten Olesen, CEO, (Qualifying Individual).

Oceanica Logistics Group, Inc., 8470 NW 70 Street, Miami, FL 33166, *Officers:* Jean-Paul Diaz, Director, (Qualifying Individual), Miguel Morales, President.

Universal Cargo Express, Inc., 1782 NW., 38 Avenue, Lauderdale Lakes, FL 33311, *Officers:* Helena Abad, Secretary, (Qualifying Individual), Aminta Lora, President.

Logistics Inc. dba Infinity Freight Services, 8621 Bellanca Avenue, Suite 1048, Los Angeles, CA 90045, *Officers:* Elizabeth L. Burt, General Manager, (Qualifying Individual), Wendy Wang, President.

New Century Logistics, Inc., 1016 S. California Street, San Gabriel, CA 91776, *Officers:* Betty Kwok, Secretary, (Qualifying Individual), Philip Kwok, President.

Load Group International, Inc. dba BOSMAS, 8375 NW., 68th Street, Miami, FL 33166, *Officers:* Hermann Lange, President, (Qualifying Individual), Jorge Medero, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Linkex, Inc., 22301 LBJ Freeway, Suite 400, Dallas, TX 75234, *Officers:* Neil F. Plunkett, CFO, (Qualifying Individual), Margaret L. Parks, President.

Secure Transportation and Relocation International, Inc. dba Star International Movers, 21598 Atlantic Blvd., Suite 100, Sterling, VA 20166, *Officer:* James V. Re, President, (Qualifying Individual).

B.F. International Inc., 3080 Northfield Place, Suite 109, Roswell, GA 20076, *Officers:* Markos Baghdasarian, Manager, (Qualifying Individual), Larisa Baghdasarian, President.

Dated: April 6, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–6855 Filed 4–10–07; 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

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Alston Martin Noah, Alston Martin Noah, Jr., Johns Chandler Noah, Mary Payton Noah, and Sue Drinkard Noah, all of Athens, Alabama; to collectively acquire additional voting shares of RB Bancorporation and thereby acquire shares of Reliance Bank, both of Athens, Alabama.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Jane A. Dickinson and Burton K. Dickinson, both of Kansas City, Missouri; as trustees of the Dickinson Family Stock Retention Trust Dated February 9, 1999; the Dickinson Grandchildren's Education Trust Dated February 9, 1999; the Chillicothe

Properties Trust Dated July 30, 1998; to retain control of Dickinson Financial Corporation II, Kansas City, Missouri, and its subsidiaries including: Dickinson Financial Corporation and Bank Midwest, National Association, both in Kansas City, Missouri; Armed Forces Bank, National Association, Fort Leavenworth, Kansas; Armed Forces Bank of California National Association, San Diego, California; Academy Bank, National Association, Colorado Springs, Colorado; Southern Commerce Bank, National Association, Tampa, Florida; and SunBank, National Association, Phoenix, Arizona, (in organization). Jane and Burton Dickinson also are filing to become members of the Dickinson Family Group, a group acting in concert, to control the above listed organizations.

Board of Governors of the Federal Reserve System, April 6, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–6849 Filed 4–10–07; 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 May 7, 2007.

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045-0001:

1. The Bank of Nova Scotia, Toronto, Canada; to acquire 10 percent of voting shares of First Bancorp, San Juan, Puerto Rico, and thereby acquire FirstBank Puerto Rico, San Juan, Puerto Rico. In connection with this application, Applicant also has applied to acquire Ponce General Corporation, San Juan, Puerto Rico and thereby acquire First Bank Florida, Miami, Florida, and thereby operate a savings association pursuant to section 225.25 (b)(4) of Regulation Y.

B. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. LeRoy C. Darby, Inc. Employee Stock Ownership Plan, Monona, Iowa; to acquire 91.33 percent of the voting shares of Leroy C. Darby, Inc., and thereby indirectly acquiring Freedombank both of Elkader, Iowa.

Board of Governors of the Federal Reserve System, April 6, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–6847 Filed 4–10–07; 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 May 7, 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. Franklin Resources Inc., San Mateo, California, to retain 5.03 percent of Hudson City Bancorp, Inc., and thereby indirectly retain shares of its subsidiary, Hudson City Savings Bank, FSB, both of Paramus, New Jersey, and thereby engage in operating a savings association, pursuant to section 225.28 (b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, April 6, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–6848 Filed 4–10–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 9 a.m. (Eastern Time) April 16, 2007.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts closed to the public

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the March 19, 2007 Board member meeting
2. Thrift Savings Plan activity report by the Executive Director
   a. Monthly Participant Activity Report
   b. Legislative Report
3. Quarterly Reports
   a. Investment Policy Review
   b. Vendor Financial Reports
4. Financial Audit Report

Parts Closed to the Public

5. Personnel

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: April 9, 2007.

Thomas K. Emswiler,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 07–1821 Filed 4–9–07; 12:18 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA'') (44 U.S.C. 3501–3520). The Federal Trade Commission (''FTC'' or ''Commission'') is seeking public comments on its proposal to extend through May 31, 2010 the current PRA clearance for information collection requirements contained its Antitrust Improvements Act Rules (''HSR Rules'') and corresponding Notification and Report Form for Certain Mergers and Acquisitions (''Notification and Report Form''), 16 CFR Parts 801–803. That clearance expires on May 31, 2007.

DATES: Comments must be filed by May 11, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''HSR Rules: FTC File No. P989316'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies to the following address: Federal Trade Commission/Office of the Secretary, Room H 135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.'' [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by using the following weblink: *https://secure.commentworks.com/ftc-hsrpra* (and following the instructions on the Web-based form). To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the weblink *https://secure.commentworks.com/ftc-hsrpra.* If this notice appears at *www.regulations.gov,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

Comments should also be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to B. Michael Verne, Compliance Specialist, 600 Pennsylvania Ave., NW., Room 301, Washington, DC 20580. Telephone: (202) 326–3100.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501–3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On January 12, 2007, the FTC sought comment on the information collection requirements associated with the HSR Rules and the corresponding Notification and Report Form (OMB Control Number: 3085–0005). No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the HSR Rules and the corresponding Notification and Report Form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before May 11, 2007.

Background Information

Section 7A of the Clayton Act (''Act''), 15 U.S.C. 18a, as amended by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94–435, 90 Stat. 1390, requires all persons contemplating certain mergers or acquisitions to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Congress empowered the Commission, with the concurrence of the Assistant Attorney General, to require ''that the notification * * * be in such form and contain such documentary material and information * * * as is necessary and appropriate'' to enable the agencies ''to determine whether such acquisitions may, if consummated, violate the antitrust laws.'' 15 U.S.C. 18a(d). Congress similarly granted rulemaking authority to, *inter alia,* ''prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.'' *Id.*

Pursuant to that section, the Commission, with the concurrence of the Assistant Attorney General, developed the HSR Rules and the corresponding Notification and Report Form. As discussed below, several changes have been made to the HSR Rules and the Notification and Report Form since FTC staff last sought OMB approval for the clearance.

Burden Statement

Estimated total annual hours burden: 156,000 hours (rounded to the nearest thousand).

The following burden estimates are primarily based on FTC data concerning the number of HSR filings and staff's informal consultations with leading HSR counsel.

In its 2004 PRA submission to OMB regarding the HSR Rules and the Notification and Report Form, FTC staff estimated that there were 21 ''index filings'' under Clayton Act Sections 7A(c)(6) and 7A(c)(8) that required 2 hours per filing, and 2,192 non-index filings that required an average of 39

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

hours per filing.[2] Staff also estimated that a total of 50 transactions would require 40 hours of burden associated with the more precise determination of transaction value as a result of the introduction of a tiered filing fee system. Thus, the total estimated hours burden was 87,530 hours [(21 index-filings × 2 hours) + (2,192 non-index filings × 39 hours) + (50 transactions × 40 hours)]. *See* 69 FR 18686 (April 8, 2004). In January 2005, staff obtained OMB approval for a nonsubstantive/nonmaterial change request to the FTC's previous burden estimate, resulting in a new burden estimate of 84,020 burden hours. The 3,510 burden hour reduction was based on an anticipated small decrease in the number of non-index filings due to annual adjustments to the statutory thresholds beginning in fiscal year 2005.[3]

There have been two amendments to the HSR Rules and one amendment to the Notification and Report Form since staff last obtained OMB approval in January 2005:

1. Revised treatment of unincorporated entities under the HSR Rules.[4] This amendment changed previously existing reporting requirements. However, based on filing statistics from the effective date of the rulemaking, the amendment appears to have had a *de minimis* effect on the number of filings received and thereby has not impacted PRA burden.

2. Electronic submission of premerger notification filings.[5] Since the effective date of this rulemaking only one electronic submission has been made. FTC staff anticipates that as the business community becomes more familiar with the new submission process more persons will choose to e-file and that such persons will experience a one hour reduction in burden (the estimated time to print or make copies of the documents when filing the traditional way). However, due to the low volume of electronic filings, the availability of the e-filing system currently has a *de minimis* effect on burden and the FTC conservatively declines to reduce its burden estimate at this time.

3. Allowing Internet links to be used for responses to Items 4(a) and (b) of the Notification and Report Form.[6] Staff projects that 50 percent of non-index filings will utilize this alternative method of providing financial data, resulting in a reduction in burden of one hour per non-index filing.

Finally, since staff last obtained OMB approval, the switch of the base year from 1997 to 2002 became effective.[7] Arguably there is some burden involved in changing the revenue numbers from 1997 to 2002 for the base year. However, this data is reported by large companies to the U.S. Census Bureau every five years in the ordinary course of business and, thus, the FTC is not required to account for such burden under the PRA.[8] Furthermore, based on staff's informal consultations with industry, staff anticipates that any increase in burden would be offset by a reduction in burden because recent revenue data is generally more easily retrievable by and readily available to reporting persons than older data. Nonetheless, although it appears a reduction in burden may be warranted, staff conservatively declines to make an adjustment to its previous burden estimate on this basis.

There were 3,510 non-index filings and 48 index filings in fiscal year 2006. Based on an average increase of 13% in fiscal year 2004—fiscal year 2006 in the number of non-index filings, staff projects a total of 3,966 non-index filings for fiscal year 2007. Likewise based on an average decrease of 34% in index filings over the same time period, staff projects a total of 32 index filings for fiscal year 2007. Retaining the FTC's previous assumptions, staff estimates that non-index filings require approximately 39 burden hours per filing and index filings require an average of 2 hours per filing. Finally, staff continues to estimate that approximately 91 transactions will require an additional 40 hours of burden due to the need for a more precise valuation of transactions that are near a filing fee threshold.[9] Thus, the total estimated hours burden before adjustment is 158,378 hours [(3,966 non-index filings × 39 hours) + (32 index filings × 2 hours) + (91 acquiring person non-index filings requiring more precise valuation × 40 hours)]. Adjusting for the reduced burden due to incorporating Item 4(a) and Item 4(b) documents by reference to an Internet link reduces the total burden by 1,983 hours (3,966 non-index filings × .5 = 1,983 × 1 hour = 1,983 hours), resulting in total burden for fiscal year 2007 of 156,395 hours.

This is a conservative estimate. In estimating PRA burden, staff considered ''the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency.'' 5 CFR 1320.3(b)(1). This includes ''developing, acquiring, installing, and utilizing technology and systems for the purpose of disclosing and providing information.'' 5 CFR 1320.3(b)(1)(iv). Although not expressly stated in the OMB regulation implementing the PRA, the definition of burden arguably includes upgrading and maintaining computer and other systems used to comply with a rule's requirements. Conversely, to the extent that these systems are used in the ordinary course of business independent of the Rule, their associated upkeep would fall outside the realm of PRA ''burden.''

Industry has been subject to the basic provisions of the HSR Rules since 1978. Thus, businesses have had several years (and some have had decades) to integrate compliance systems into their business procedures. Accordingly, most companies now maintain records and provide updated order information of the kind required by the HSR Rules in their ordinary course of business. Nevertheless, staff conservatively assumes that the time devoted to compliance with the Rule by existing and new companies remains unchanged from its preceding estimate.

Estimated labor costs: $73,506,000 (rounded to the nearest thousand).

Using the burden hours estimated above and applying an estimated average of $470/hour for executive and attorney wages,[10] staff estimates that the

[2] Clayton Act Sections 7A(c)(6) and (c)(8) exempt from the requirements of the premerger notification program certain transactions that are subject to the approval of other agencies, but only if copies of the information submitted to these other agencies are also submitted to the FTC and the Assistant Attorney General. Thus, parties must submit copies of these filings, which are included in the totals shown, but completing the task requires significantly less time than non-exempt transactions.

[3] Based on actual data concerning the number of non-index filings since then, staff does not anticipate that the annual adjustments will decrease the number of filings going forward. Furthermore, because the adjustments are based on annual change in gross domestic product, as the thresholds increase, the size-of-transactions should increase at the same rate, resulting in no net effect on the number of non-index filings received.

[4] 70 FR 11502 (March 8, 2005)

[5] 71 FR 35995 (June 23, 2006)

[6] 70 FR 73369 (December 12, 2005)

[7] The switch of the base year from 1997 to 2002 became effective December 30, 2005. 70 FR 77312 (December 30, 2005).

[8] *See* 5 CFR 1320.3(b)(2). Staff recognizes that the HSR Rules require companies to report total revenues for a specific NAICS code (whereas, the Census Bureau collects data for a specific NAICS code for each establishment). Nonetheless, staff anticipates that the burden tied to the aggregation of such data as required by the HSR Rules is *de minimis*.

[9] The FTC retains its previous estimate that 4.6% of non-index filings for acquiring persons will require a more precise valuation. Using staff's projections for fiscal year 2007, 91 transactions will undergo a more precise valuation process [(3,966 non-index filings / 2) = 1,983 (number of non-index filings for acquiring persons) × 4.6%].

[10] The FTC's previous estimate of $425 per hour has been increased by the Social Security COLA percentage for fiscal year 2004–fiscal year 2006

total labor cost associated with the HSR Rules and the Notification and Report Form is approximately $73,505,650 (156,395 hours × $470/hour).

Estimated annual non-labor cost burden: $0 or minimal.

The applicable requirements impose minimal start-up costs, as businesses subject to the HSR Rules generally have or obtain necessary equipment for other business purposes. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates, but that this would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with the information collected under the HSR Rules and the corresponding Notification and Report Form.

William Blumenthal,

General Counsel.

[FR Doc. E7–6773 Filed 4–10–07; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–NEW; 60-day Notice]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Regular, new collection.

Title of Information Collection: The Role of Faith-based and Community Organizations in Post-Hurricane Human Services Relief Efforts.

Form/OMB No.: 0990–new.

Use: The Office of the Assistant Secretary for Planning and Evaluation will study the role of faith-based and community organizations in Louisiana, Mississippi, and Houston to document and analyze the human services relief efforts conducted and organizational networks used in the aftermath of hurricanes Katrina and Rita in 2005. This information will be used to improve future disaster planning and response by government and other relevant organizations.

Frequency: One-time collection.

Affected Public: Non-profit organizations; government officials; individuals.

Annual Number of Respondents: 390.

Total Annual Responses: 390.

Average Burden per Response: 41.8 minutes.

Total Annual Hours: 271.7 hours.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 60 days, and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Resources and Technology, Office of Resources Management, Attention: Sherrette Funn-Coleman (0990–NEW), Room 537–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: April 4, 2007.

Mary Oliver-Anderson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–6786 Filed 4–10–07; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–0221; 60-day notice]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension.

Title of Information Collection: Family Planning Annual Report: Forms and Instructions.

Form/OMB No.: 0990–0221.

Use: This annual reporting requirement is for family planning service delivery projects authorized and funded under the Population Research and Voluntary Family Planning Programs (Section 1001 Title X of the Public Health Service Act, 42 U.S.C. 300). The FPAR is the only source of annual, uniform reporting by all Title X family planning service grantees. OPA uses FPAR data to monitor compliance with statutory requirements, to comply with accountability and performance requirements for GPRA and HHS plans and to guide program planning and evaluation.

Frequency: Reporting annually.

Affected Public: State, Local, or Tribal Government.

Annual Number of Respondents: 88.

Total Annual Responses: 88.

Average Burden per Response: 33.38 Hours.

Total Annual Hours: 2937.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received with 60-days, and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of

(fiscal year 2004 (2.7%), fiscal year 2005 (4.1%), fiscal year 2006 (3.3%)).

the Secretary, Assistant Secretary for Resources and Technology, Office of Resources Management, Attention: Sherrette Funn-Coleman (0990–0221), Room 537–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: April 4, 2007 .

Mary Oliver-Anderson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–6791 Filed 4–10–07; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Applications for the Prevention of HIV/AIDS in Women Living in the Rural South Program

AGENCY: Office on Women's Health, Office of Public Health and Science, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

Announcement Type: Competitive Cooperative Agreement—FY 2007 Initial announcement.

Funding Opportunity Number: Not Applicable.

OMB Catalog of Federal Domestic Assistance: The OMB Catalog of Federal Domestic Assistance Number is 93.015.

DATES: No later than 5 p.m. Eastern Time on June 11, 2007.

ADDRESSES: To receive consideration, applications must be received by the Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS) c/o WilDon Solutions, Office of Grants Management Operations Center, 1515 Wilson Blvd., Third Floor Suite 310, Arlington, VA 22209, Attention Office of Women's Health, HIV.

SUMMARY: This program is authorized by 42 U.S.C. 300u–2(a).

The mission of the Office on Women's Health (OWH) is to promote the health of women and girls through gender-specific approaches. To that end, OWH has established public/private partnerships to address critical women's health issues nationwide. These include supporting collaborative efforts to provide accurate prevention education to rural women living in the rural[1] south[2] rural South. The emphasis of these efforts is on educational and prevention counseling covering the full spectrum of primary and secondary prevention adapted to a female centered perspective. This initiative is intended to demonstrate a collaborative partnership approach between the grantee and local health or social service providers, *e.g.*, community health centers, rural health centers, family planning clinics, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), community based organizations, faith based organizations, public assistance programs and local health departments.

The partnership is expected to be a viable strategy for identifying and educating rural women in a culturally appropriate manner that reduces denial, demystifies stigma, clarifies inaccuarate information, and increases knowledge for self-protection and access to counseling and testing resources. It is expected that the prevention education model will provide accurate, culturally, and linguistically appropriate information to women at risk for or living with HIV/AIDS in the rural south.

Funding will be directed at activities designed to improve the delivery of services to women disproportionately impacted by HIV/AIDS.

I. Funding Opportunity Description

The primary purpose of this OWH HIV/AIDS program is to increase HIV prevention knowledge and reduce the risk of contracting HIV among minority women living in the rural south. *The goals for this program are*:

Develop and sustain HIV prevention services to increase awareness of and receptivity to HIV prevention, including the ABC[3]—*A*bstinence, *B*eing Faithful, *C*orrect and Consistent use of Condoms model, among women living in rural communities in the south experiencing high rates of HIV infection within female populations.

Develop gender specific education and prevention training modules on critical HIV/AIDS primary and secondary prevention/education information. Centers for Disease Control and Prevention recommended effective interventions may be used as well as adapted interventions which demonstrate core elements of interventions with evidence of effectiveness.[4]

Implement education and prevention training modules that are culturally and linguistically appropriate for women living in rural communities in the south.

The OWH hopes to fulfill this purpose by providing funding to targeted community-based organizations to enhance their prevention and support activities to women living in the rural south experiencing high rates of HIV infection. The proposed program must address false HIV information, stigma, denial, knowledge, self-protection behaviors and the importance of knowing one's seropositive status. A gender specific approach shall be an integral element of the selected intervention. Information and services provided must be culturally and linguistically appropriate for the individuals for whom the information and services are intended. Women's health issues are defined in the context of women's lives, including their multiple social roles and the importance of relationships with other people to their lives. This definition of women's health encompasses mental, dental, and physical health and spans the life course.

The objectives of the OWH program are to:

1. Increase knowledge of accurate HIV prevention information among women living in rural communities in the south.

2. Improve and increase access to quality HIV prevention services to women living with or at high risk for HIV infection in rural communities in the south.

3. Improve receptivity to and awareness of HIV prevention education necessary to reduce the stigma among women in rural south communities.

4. Increase the number of women living in the rural south voluntarily receiving HIV testing.

In order to achieve the objectives of the program the grantee shall: (1) Establish partnership(s) with local entities after reviewing city/county/State data on HIV incidence among women populations, exploring challenges and trends which enable risks and vulnerabilities of women living in rural south communities. (2) Develop and implement a gender specific model ''education and prevention counseling'' program to provide accurate prevention education to women living in the rural south. Culture, language, and sub-cultures of rural south populations are considerations for appropriate program components. (3) Develop or select use of existing prevention education training modules on critical HIV/AIDS primary and secondary prevention and education information. (4) Establish Memoranda of Understanding with local health care entities, social services, local small businesses, community and faith

[1] Access: *http://www.cdc.gov/hiv/graphics/rural-urban.htm* for definitions.

[2] Access: *http://www.cdc.gov/hiv/graphics/rural-urban.htm* for visual of U.S. south.

[3] USAID. *The ''ABCs'' of HIV prevention*: Report of a USAID technical meeting on behavior change approaches to primary prevention of HIV/AIDS. Washington, DC: Population, Health and Nutrition Information Project, 2003.*http://www.usaid.gov/our_work/global_health/aids/TechAreas/prevention/abc.pdf*

[4] Compendium of HIV Prevention Interventions with Evidence of Effectiveness, CDC's HIV/AIDS Prevention Research Synthesis Project, November 1999.

based organizations as partners to implement referral coordination for counseling, HIV testing, well woman screenings, and other social service needs. (5) Visit local community assistance offices/small businesses, faith based organizations and other health/social service programs as outreach to communities and women living with HIV/AIDS and who are at risk of infection of HIV/AIDS/STDs. In addition, the grantee shall submit reports outlining program activities (e.g., recruitment, participant retention), which reflect how its implementation process reflected an understanding of the realities of women's lives and addressed the issues of the participants to motivate continued participation. Finally, the grantee shall develop a plan to continue the program activities and community linkages beyond OWH funding and shall illustrate how program performance addressed community needs and the needs of women living in rural south communities experiencing high rates of HIV infection.

The grantee is encouraged to attend at least one national or regional HIV/AIDS Conference (e.g., U.S. Conference on AIDS, the CDC National HIV Prevention Conference, etc.), and to seek updates in HIV prevention strategies, therapies, and priority activities as advised by the CDC, the Health Resources and Services Administration, and other public health experts.

II. Award Information

The OWH program will be supported through the cooperative agreement mechanism. Using this mechanism, the OWH anticipates making five awards in FY 2007. The anticipated start date for new awards is September 01, 2007, and the anticipated period of performance is September 01, 2007, through August 31, 2010. Approximately $500,000 is available to make awards of up to $100,000 total cost (direct and indirect) for a 12-month period. However, the actual number of awards made will depend upon past performance and the quality of the applications received and the amount of funds available for the program.

The program is a collaborative effort between the OWH and the Office of HIV/AIDS Policy, OPHS. These offices will provide the technical assistance and oversight necessary for the implementation, conduct, and assessment of program activities.

The applicant shall:

1. Develop and implement the model described in the application.

2. Provide complete curricula, i.e., topics, content, participant workbook, participant evaluation forms, pre/post instruments, and goals/objectives.

3. Describe training, teaching methods and strategies, e.g., interactive exercises, facilitated discussion, lectures, video/films, community peers, etc., proposed to deliver modules. Describe the intervention format: one time session, series of sessions occurring beyond one day, one day session, etc.

4. Conduct outreach to local entities and community representatives. Identify locations for prevention education sites and identify community liaisons for assistance in identifying prospective women participants.

5. Establish community partnerships through Memoranda of Understanding.

6. Participate in special meetings and projects/funding opportunities identified by the OWH.

7. Adhere to all program requirements specified in this announcement and the Notice of Grant Award.

8. Submit required quarterly progress, annual, and financial reports by the due dates stated in this announcement and the Notice of Grant Award.

9. Comply with the DHHS Protection of Human Subjects regulations (which require obtaining Institutional Review Board approval), set out at 45 CFR Part 46, if applicable. General information about Human Subjects regulations can be obtained through the Office for Human Research Protections (OHRP) at *http://www.hhs.gov/ohrp, ohrp@osophs.dhhs.gov*, or toll free at (866) 447–4777.

The Federal Government will:

1. Conduct an orientation meeting for the grantees within the first month of funding.

2. Conduct at least one site visit which includes some observation of program progress.

3. Review and approve the prevention education curricula for consistency with the A-B-C strategy.

4. Review all quarterly, annual, and final progress reports.

5. Review and concur with requested project modifications.

6. Review timeline and implementation plan.

7. Participate in telephone conferences and other activities supporting project performance improvements and evaluation

The DHHS is committed to achieving the health promotion and disease prevention Objectives of Healthy People 2010 and the Healthy U.S. Initiative. Emphasis will be placed on aligning OWH activities and programs with the DHHS Secretary's four priority areas—heart disease, cancer, diabetes, and HIV/AIDS and with the Healthy People 2010: Goal 2—eliminating health disparities due to age, gender, race/ethnicity, education, income, disability, or living in rural localities. More information on the Healthy People 2010 objectives may be found on the Healthy People 2010 Web site: *http://www.health.gov/healthypeople*. One free copy may be obtained from the National Center for Health Statistics (NCHS), 6525 Belcrest Road, Room 1064, Hyattsville, MD 20782 or telephone (301) 458–4636 [DHHS Publication No. (PHS) 99–1256]. This document may also be downloaded from the NCHS Web site: *http://www.cdc.gov/nchs*.

III. Eligibility Information

1. Eligible Applicants

Eligible applicants must meet all of the following criteria:

1. Organizations located in rural south communities experiencing high HIV prevalence among women;

2. Organizations in or adjacent to rural communities located in the South;4 and

3. Organizations which indicated history of serving African American women, Hispanic women, rural women, poor women, women living with HIV/AIDS, or whose lifestyles place them at high risk for HIV/STD infection.

Eligible entities may include: non profit community-based organizations, faith-based organizations, national organizations, colleges and universities, clinics and hospitals, research institutions, State and local government agencies, tribal government agencies and tribal/urban Indian organizations.

2. Cost Share or Matching

Cost Sharing or Matching funds are not required for this program.

IV. Application And Submission Information

1. Address To Request Application Kit

Application kits may be obtained by accessing Grants.gov at *http://www.grants.gov* or the e-Grants system at *www.grantsolutions.gov*. To obtain a hard copy of the application kit, contact WilDon Solutions at 1–888–203–6161. Applicants may fax a written request to WilDon Solutions at 703–351–1135 or e-mail the request to *OPHSgrantsinfor@teamwildon.com*. Applicants must be prepared using Form OPHS–1, which can be obtained at the Web site noted above.

2. Content and Format of Application and Submission

All completed applications must be submitted to the OPHS Office of Grants Management at the above mailing address. In preparing the application, it

is important to follow ALL instructions provided in the application kit. Applications must be submitted on the forms supplied (OPHS–1, Revised 3/2006) and in the manner prescribed in the application kits provided by the OPHS. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. The program narrative should not be longer than 25 double spaced pages, not including appendices and required forms, using an easily readable, 12 point font. All pages, figures and tables should be numbered.

A Dun and Bradstreet Universal Numbering System (DUNS) number is required for all applications for Federal assistance. Organizations should verify that they have a DUNS number or take the steps necessary to obtain one. Instructions for obtaining a DUNS number are included in the application package, and may be downloaded from the Web site: *http://www.dnb.com/US/duns_update/index.html*. At a minimum, each application for a cooperative agreement grant funded under this OWH announcement must:

Present a plan outlining steps to develop and implement a gender specific model program using an evidence based effective intervention with trainers capable of providing accurate prevention information in a culturally and linguistically appropriate manner to rural women in the south. Specify the screening, development and or selection process for the intervention model(s) and the role of advisory committees and/or board of directors.

Provide signed Memoranda of Agreement(s) with partners to establish linkages to identify women participants, location of prevention education sites, and for referral to available services for the targeted population based upon prevention, care, counseling, testing and social service needs.

Detail/specify the roles and resources/services that each partner organization brings to the program, and the duration and terms of agreement as confirmed by a signed MOU/MOA between the applicant organization and each partner. The partnership agreement(s) (MOU/MOA) must name the individual who will work with the program, describe their function, and state their qualifications. The documents, specific to each organization (form letters are not acceptable), must be signed by individuals with the authority to represent and bind the organization (e.g., president, chief executive officer, executive director) and submitted as part of the grant application. Partnership agreements must be on letterhead of partnering agency.

Demonstrate the ways the organization and the prevention education services that are coordinated through its partners are gender and age appropriate, women-focused, women-friendly, women-relevant as well as culturally and linguistically appropriate to the target population.

Be a sustainable organization with an established network of partners capable of providing and coordinating a gender specific prevention education model program in the targeted community. The partners and their roles and responsibilities to the program must be clearly identified in the application. OWH prefers that applicants have a minimum of three years prior demonstrated experience.

Demonstrate that any prevention intervention (including prevention for positives) contains the core elements of interventions with evidence of effectiveness. (See Compendium of HIV Prevention Interventions with Evidence of Effectiveness, from CDC's HIV/AIDS Prevention Research Synthesis Project, Nov. 1999; see CDC's HIV Prevention Strategic Plan 2005.)

Provide a time line and work plan for Program Implementation for the funding year, presented in correlation to goals, objectives, and expected outcomes or targets, demonstrating an understanding of the relationship between programmatic activities and HIV prevention outcomes.

Describe in detail plans for the local evaluation of the program and when and how the evaluation will be used to enhance the program; and describe the approval process of local and state review boards for local evaluation surveys, focus groups, and other client inquiries.

Describe the organization's skill levels in word processing and data management (Word, Word perfect, excel); and specify the filing, storage, and location of client files.

Format and Limitations of Application: Applicants are required to submit an original ink signed and dated application and 2 photocopies. All pages must be numbered clearly and sequential beginning with the Project Summary. The application must be typed double-spaced on one side of plain 8 ½″ x 11″ white paper, using at least a 12 point font, and contain 1″ margins all around.

The Project Summary and Project Narrative must not exceed a total of 25 double-spaced pages, excluding the appendices. The original and each copy must be stapled; the application should be organized in accordance with the format presented in the RFA. An outline for the minimum information to be included in the ''Project Narrative'' section is presented below. The content requirements for the Project Narrative portion of the application are divided into five sections and described below within each Factor. Applicants must pay particular attention to structuring the narrative to respond clearly and fully to each review Factor and associated criteria. Applications not adhering to these guidelines may not be reviewed.

Background (Understanding of the Problem)

A. Organizations' goals and purpose(s).

B. Demographic profile and HIV prevalence of target rural community and counties with discussion of local norms, tradition, culture of targeted population.

C. Local needs assessment and gaps in services, e.g., prevention, care, and social services for targeted population.

D. Local program objectives

1. Tied to program goal(s);

2. Measurable with time frame.

E. Organizational charts that include partners and a discussion of the proposed resources to be contributed by the partners, personnel, and their expertise and how their involvement will help achieve the program goals.

Implementation Plan (Approach)

A. Discuss gender specific program elements.

B. Describe curriculum and its appropriateness for target population.

C. Describe local evaluation tools, indicators of increased knowledge, reduction in attitudes/stigma, and an increase number voluntarily undergoing HIV testing.

D. Partnerships and referral system/follow up.

Management Plan

A. Key project staff, their resumes, and a staffing chart for budgeted staff.

B. To-be-hired staff and their qualifications.

C. Staff responsibilities.

D. Management experience of the lead agency and partners as related to their role in the Program.

E. Management oversight of staff roles and job performance.

F. Address maintenance of confidentiality, ethics in performance, and on-going staff training.

G. Explain decision making hierarchy.

Local Evaluation Plan

A. Purpose.

B. Describe tools and procedures for measuring strengths and weaknesses.

C. Use of results to enhance programs.

D. Indicators that reflect goals/objectives are being met.

Organizational Agency Qualifications

A. Agency history of performance in prevention education, e.g., developing/adapting prevention education curricula, training skills and expertise, certification in specific training modules, measuring participant learning and satisfaction.

B. Agency relationships, past and current, with women focused programs,

local health and social services providers, and community based organizations and representatives.

C. Community acceptance: staff recognition, media, requests for agency involvement.

D. Technical Assistance plans/ strategies.

Appendices

A. Memorandums of Agreement/ Understanding/Partnership Letters.

B. Required Forms (Assurance of Compliance Form, etc.).

C. Key Staff Resumes.

D. Charts/Tables (Partners, services, population demographics, program components, etc.).

E. Other attachments.

Use of Funds: A majority of the funds from the award must be used to support staff and efforts aimed at implementing the program. The Program Coordinator, or the person responsible for the day-to-day management of the program, must devote at least a 75 percent level of effort to the program. Funds may also be used to transfer the lessons learned/ successful strategies/gender specific approaches from the program (technical assistance) through activities such as showcasing the program at conferences, meetings, and workshops; providing direct technical assistance to other communities; and providing technical assistance to other rural south based community organizations, or through their professional organizations, interested in working with women living in the rural south who are living with HIV/AIDS or who are at high risk for HIV/STD infection. These may include either process-based lessons (i.e., How to bring multiple sectors of community partners together) or outcomes-based lessons (i.e., How to increase the number of rural women living in the south who voluntarily undergo HIV testing).

Funds may be used for personnel, consultants, supplies (including screening, education, and outreach supplies), and grant related travel. Funds may not be used for construction, building alterations, equipment, medical treatment, or renovations. All budget requests must be justified fully in terms of the proposed goals and objectives and include an itemized computational explanation/breakout of how costs were determined.

Meetings: The OWH will convene grantees once a year for orientation. The meeting will be held in the Washington metropolitan area or in one of the ten (10) DHHS regional office cities. The budget should include a request for funds to pay for the travel, lodging, and meals. The meeting is usually held within the first six weeks post award.

3. Submission Date and Time

To be considered for review, applications must be received by the Office of Public Health and Science, Office of Grants Management, c/o WilDon Solutions, by 5 p.m. Eastern on June 11, 2007. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date requirement in this announcement supercedes the instructions in the OPHS–1 form.

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the Grants.gov and GrantSolutions.gov systems is encouraged. Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review.

In order to apply for new funding opportunities which are open to the public for competition, you may access the Grants.gov Web site portal. All OPHS funding opportunities and application kits are made available on Grants.gov. If your organization has/had a grantee business relationship with a grant program serviced by the OPHS Office of Grants Management, and you are applying as part of ongoing grantee related activities, please access GrantSolutions.gov.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management, c/o WilDon Solutions (1515 Wilson Blvd., Suite 310, Arlington, VA 22209) no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Web Site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov.*

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, c/o WilDon Solutions, and if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative

and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Web site Portal will not be transferred to the GrantSolutions system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management, c/o WilDon Solutions, to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the GrantSolutions system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions Via the GrantSolutions System

OPHS is a managing partner of the GrantSolutions.gov system. GrantSolutions is a full life-cycle grants management system managed by the Administration for Children and Families, Department of Health and Human Services (HHS), and is designated by the Office of Management and Budget (OMB) as one of the three Government-wide grants management systems under the Grants Management Line of Business initiative (GMLoB). OPHS uses GrantSolutions for the electronic processing of all grant applications, as well as the electronic management of its entire Grant portfolio.

When submitting applications via the GrantSolutions system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the GrantSolutions system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however these mail-in items must be entered on the GrantSolutions Application Checklist at the time of electronic submission, and must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission, the GrantSolutions system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the GrantSolutions system to ensure that all signatures and mail-in items are received.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management, c/o WilDon Solutions, on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will not be reviewed. Applications that exceed the specified amount for a twelve-month budget period may also not be reviewed. Applications that are judged to be in compliance will be reviewed for technical merit in accordance with DHHS policies. Applications will be evaluated by a technical review panel composed of experts with experience with sex and gender programs, program management, service delivery, outreach, health education, Healthy People 2000 and/or Healthy People 2010, leadership development and program assessment. Consideration for award will be given to applicants that best demonstrate progress and/or plausible strategies for eliminating health disparities through sex and gender targeted HP 2010 objectives. Applicants are also advised to pay close attention to the specific program guidelines and general instructions in the application kit.

4. Intergovernmental Review

This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). Applicants shall submit a copy of the application face page (SF–424) and a one page summary of the project, called the Public Health System Impact Statement. The PHSIS is intended to provide information to State and local health officials to keep them apprised on proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted: (a) A copy of the face page of the application (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate state or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to the OWH.

This program is also subject to the requirements of Executive Order 12372 that allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit to be made available under this notice will contain a listing of States that have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC in each affected State. A complete list of SPOCs may be found at the following web site: *http://www.whitehouse.gov/omb/grants/spoc.html* The due date for State process recommendations is 60 days after the application deadline. The OWH does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (See Intergovernmental Review of Federal Programs, Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

5. Funding Restrictions

Funds may not be used for construction, building alterations, equipment purchase, medical treatment, renovations, or to purchase food.

6. Other Submission Requirements

Beginning October 1, 2003, all applicants are required to obtain a Data Universal Numbering System (DUNS) number as preparation for doing business electronically with the Federal Government. The DUNS number must be obtained prior to applying for OWH funds. The DUNS number is a nine-character identification code provided by the commercial company Dun & Bradstreet, and serves as a unique identifier of business entities. There is no charge for requesting a DUNS number, and you may register and obtain a DUNS number by either of the following methods: Telephone, 1–866–705–5711. Web site: *http://www.dnb.com/product/eupdate/requestOptions.html.* Be sure to click on the link that reads, ''DUNS Number Only'' at the right hand, bottom corner of the screen to access the free registration page. Please note that registration via the web site may take up to 30 business days to complete.

V. Application Review Information

1. Criteria: The objective technical review of applications will consider the following factors:

*Factor 1: Implementation/Approach * 30%*

This section must discuss:

1. Appropriateness of the existing community resources and linkages established to deliver accurate prevention education to meet the requirements of the program. Describe other community providers that will be affiliated with the program and their role in service delivery.

2. Appropriateness of proposed approach, e.g. evidence based intervention and specific activities described to address program objectives.

3. Gender specific elements of proposed process.

4. Soundness of evaluation objectives for measuring program effectiveness, impact of prevention education on knowledge and behavior, and understanding the importance of knowing one's status.

5. Appropriate MOU's or Letters of Intent should support assertions made in this section.

Factor 2: Management Plan—20%

This section must discuss:

1. Applicant's organization capability to manage the project as determined by the qualifications of the proposed staff or requirements for ''to be hired'' staff;

2. Proposed staff level of effort; management experience of the lead agency; and the experience, resources and role of each partner organization as it relates to the needs and programs/activities of the program;

3. Staff experience as it relates to meeting the needs of the community and populations served.

4. Detailed position descriptions, resumes of key staff, and a staffing chart should be included in the appendix.

Factor 3: Organizational/Agency Qualifications—20%

This section should include demonstrated knowledge of prevention education intervention models, relationships with rural women living in rural communities in the south, and agency history of services to poor women, minority women, HIV infected individuals, and HIV infected women.

Factor 4: Background/Understanding of the Problem—15%

This section must discuss:

1. Description of the current state of affairs for women living in rural communities in the south regarding HIV prevalence, socioeconomic status, access to HIV testing, stigma and availability of HIV prevention education in addition to the review of issues for women living in the program target rural community.

2. Relevance of organizational goals and purpose(s) to community and local needs.

3. Challenges women face in seeking HIV culturally and linguistically appropriate education and counseling and testing in the target rural community and surrounding areas.

4. Outreach, logistics, and stigma issues impacting the target rural community.

Factor 5: Evaluation Plan—15%

Provide a clear statement of program goal(s), feasibility and appropriateness of the local evaluation plan, analysis of results, and procedures to determine if the program goals are met. Provide a clear statement of willingness to participate actively in the national OWH evaluation.

Review and Selection Process: Funding decisions will be made by the

OWH, and will take into consideration the recommendations and ratings of the review panel, program needs, geographic location, stated preferences, and the recommendations of DHHS Regional Women's Health Coordinators (RWHC).

VI. Award Administration Information

1. Award Notices

Successful applicants will receive a notification letter from the Deputy Assistant Secretary for Health (Women's Health) and a Notice of Grant Award (NGA), signed by the OPHS Grants Management Officer. The NGA shall be the only binding, authorizing document between the recipient and the OWH. Notification will be mailed to the Program Director identified in the application. Unsuccessful applicants will receive a notification letter with the results of the review of their application from the Deputy Assistant Secretary for Health (Women's Health).

2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (DHHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to State and local governments. Applicants funded under this announcement must be aware of and comply with these regulations. The CFR volume that include parts 74 and 92 may be downloaded from *http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrvl_03.html.*

The DHHS Appropriations Act requires that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees shall clearly state the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-government sources.

3. Reporting Requirements

In addition to those listed above, a successful applicant will submit a progress report and a final report. This report shall provide a detailed summary of major achievements, problems encountered, and actions taken to overcome them. Progress reports require data collection into the matrix provided by the national evaluator. The final report shall summarize the goals achieved and lessons learned in the course of the contract, and how the program will be sustained. The report shall be format established by the OWH, in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR Parts 74 and 92. The purpose of the quarterly and annual progress reports is to provide accurate and timely program information to program managers and to respond to Congressional, Departmental, and public requests for information about the program. An original and one copy of the quarterly progress report must be submitted by, December 10, March 10, June 10 and final report by August 25. If these dates fall on a Saturday or Sunday, the report will be due on Monday.

A financial Status Report (FSR) SF–269 is due 90 days after the close of each 12-month budget period.

VII. Agency Contact(s)

For application kits, information on budget and business aspects, and programmatic questions of the application, please contact: WilDon Solutions, Office of Grants Management Operations Center, 1515 Wilson Blvd., Third Floor, Suite 310, Arlington, VA 22209 at 1–888–203–6161, *e-mail OPHSgrantinfo@teamwildon.com,* or fax 703–351–1135.

VIII. Other Information

Three (3) OWH Prevention of HIV/AIDS in Women Living in the Rural South programs are currently funded by the OWH. Information about these programs may be found at the following Web site: *http://www.womenshealth.gov/owh/fund/index.htm.*

Definitions

For the purposes of this cooperative agreement program, the following definitions are provided:

AIDS: Acquired immunodeficiency syndrome is a disease in which the body's immune system breaks down and is unable to fight off certain infections and other illnesses that take advantage of a weakened immune system.

Age-appropriate: Provision of prevention education that adapts the assessment and overall counseling education to the developmental level of the individual(s)

Community-based: The locus of control and decision-making powers is located at the community level, representing the service area of the community or a significant segment of the community.

Community-based organization: Public and private, nonprofit organizations that are representative of communities or significant segments of communities.

Community health center: A community-based organization that provides comprehensive primary care and preventive services to medically underserved populations. This includes but is not limited to programs reimbursed through the Federally Qualified Health Centers mechanism, Migrant Health Centers, Primary Care Public Housing Health Centers, Healthcare for the Homeless Centers, and other community-based health centers.

Comprehensive women's health services: Services including, but going beyond traditional reproductive health services to address the health needs of underserved women in the context of their lives, including recognition of the importance of family relationships and responsibilities. Services include basic primary care services; acute, chronic, and preventive services including gender and age-appropriate preventive services; mental and dental health services; patient education and counseling; promotion of healthy behaviors (like nutrition, smoking cessation, substance abuse services, and physical activity); and enabling services. Ancillary services are also provided such as laboratory tests, X-ray, environmental, social referral, and pharmacy services.

Culturally competent: Information and services provided at the educational level and in the language and cultural context that are most appropriate for the individuals for whom the information and services are intended. Additional information on cultural competency is available at the following Web site: *http://www.aoa.dhhs.gov/May2001/factsheets/Cultural-Competency.html.*

Cultural perspective: Recognizes that culture, language, and country of origin have an important and significant impact on the health perceptions and health behaviors that produce a variety of health outcomes.

Enabling services: Services that help women access health care, such as transportation, parking vouchers, translation, child care, and case management.

Gender-Specific: An approach which considers the social and environmental context in which women live and therefore structures information, activities, program priorities and service delivery systems to compliment those factors.

Healthy People 2010: A set of national health objectives that outlines the

prevention agenda for the Nation. Healthy People 2010 identify the most significant preventable threats to health and establishes national goals for the next ten years. Individuals, groups, and organizations are encouraged to integrate Healthy People 2010 into current programs, special events, publications, and meetings. Businesses can use the framework, for example, to guide worksite health promotion activities as well as community-based initiatives. Schools, colleges, and civic and faith-based organizations can undertake activities to further the health of all members of their community. Health care providers can encourage their patients to pursue healthier lifestyles and to participate in community-based programs. By selecting from among the national objectives, individuals and organizations can build an agenda for community health improvement and can monitor results over time. More information on the Healthy People 2010 objectives may be found on the Healthy People 2010 web site: *http://www.health.gov/healthypeople.*

HIV: The human immunodeficiency virus that causes AIDS.

Holistic: Looking at women's health from the perspective of the whole person and not as a group of different body parts. It includes dental, mental, as well as physical health.

Lifespan: Recognizes that women have different health and psycho social needs as they encounter transitions across their lives and that the positive and negative effects of health and health behaviors are cumulative across a woman's life.

Prevention education: Accurate information to increase knowledge of methods and behaviors to keep individuals from becoming infected with HIV.

Dated: April 3, 2007.

Wanda K. Jones,

Deputy Assistant Secretary for Health, (Women's Health)

[FR Doc. E7–6833 Filed 4–10–07; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–07AT]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Quarantine Station Illness Response Forms—Airline, Maritime, Land/Border Crossing (0920–07AT)—New—National Center for Preparedness, Detection, and Control of Infectious Diseases (NCPDCID) (proposed), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is proposing to collect patient-level clinical, epidemiologic, and demographic data from ill travelers and their possible contacts in order to fulfill its regulatory responsibility to prevent the importation of communicable diseases from foreign countries (42 CFR Part 71) and interstate control of communicable diseases in humans (42 CFR Part 70).

Section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264) authorizes the Secretary of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the United States. The regulations that implement this law, 42 CFR Parts 70 and 71, authorize quarantine officers and other personnel to inspect and undertake necessary control measures with respect to conveyances (*e.g.*, airplanes, cruise ships, trucks, etc.), persons, and shipments of animals and etiologic agents in order to protect the public health. The regulations also require conveyances to immediately report an ''ill person'' or any death on board to the Quarantine Station prior to arrival in the United States. An ''ill person'' is defined in statute by:

—Fever (≥100 °F or 38 °C) persisting ≥48 hours

—Fever (≥100 °F or 38 °C) AND rash, glandular swelling, or jaundice

—Diarrhea (≥3 stools in 24 hours or greater than normal amount)

The SARS situation and concern about pandemic influenza and other communicable diseases have prompted CDC Quarantine Stations to recommend that all illnesses be reported prior to arrival.

CDC Quarantine Stations are currently located at 20 international U.S. Ports of Entry. When a suspected illness is reported to the Quarantine Station, officers promptly respond to this report by meeting the incoming conveyance (when possible), collecting information and evaluating the patient(s), and determining whether an ill person can safely be admitted into the U.S. If Quarantine Station staff are unable to meet the conveyance, the crew or medical staff of the conveyance are trained to complete the required documentation and forward it (using a secure system) to the Quarantine Station for review and follow-up.

To perform these tasks in a streamlined manner and ensure that all relevant information is collected in the most efficient and timely manner possible, Quarantine Stations use a number of forms—the Airline Screening and Illness Response Form, the Ship Illness/Death Reporting Form, and the Land/Border Crossing Form—to collect data on passengers with suspected illness and other travelers/crew who may have been exposed to an illness. These forms are also used to respond to a report of a death aboard a conveyance.

The purpose of all three forms is the same: To collect information that helps quarantine officials detect and respond to potential public health communicable disease threats. All three forms collect the following categories of information: demographics and mode of transportation, clinical and medical history, and any other relevant facts (*e.g.*, travel history, traveling companions, etc.). As part of this documentation, quarantine public health officers look for specific signs and symptoms common to the nine quarantinable diseases (Pandemic influenza; SARS; Cholera; Plague; Diphtheria; Infectious Tuberculosis;

Smallpox; Yellow fever; and Viral Hemorrhagic Fevers), as well as most communicable diseases in general. These signs and symptoms include fever, difficulty breathing, shortness of breath, cough, diarrhea, jaundice, or signs of a neurologic infection. The forms also collect data specific to the traveler's conveyance.

These data are used by Quarantine Stations to make decisions about a passenger's suspected illness as well as its communicability. This in turn enables Quarantine Station staff to assist conveyances in the public health management of passengers and crew.

The estimated total burden on the public, included in the chart below, can vary a great deal depending on the severity of the illness being reported, the number of contacts, the number of follow-up inquiries required, and who is recording the information (*e.g.*, Quarantine Station staff versus the conveyance medical authority). In all cases, Quarantine Stations have implemented practices and procedures that balance the health and safety of the American public against the public's desire for minimal interference with their travel and trade. Whenever possible, Quarantine Station staff obtain information from other documentation (*e.g.*, manifest order, other airline documents) to reduce the amount of the public burden.

There is no cost to respondents other than their time to complete the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Airline Illness Screening Response Form	1102	1	15/60	276
Land Border Crossing of Travelers	48	1	15/60	12
Ship Illness/Death ReportForm	96	1	15/60	24
Total				312

Dated: April 5, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–6822 Filed 4–10–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-07–07AV]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Academic Centers of Excellence on Youth Violence Prevention Program Information System—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Eight Academic Centers of Excellence on Youth Violence Prevention (ACEs) and two Urban Partnerships—Academic Centers of Excellence on Youth Violence Prevention (U–PACEs) are currently funded through CDC to foster and promote a stable, visible, long term strategy to address the complex problem of youth violence. The centers work with community members and many educational, justice and social work partners to develop action plans, partnerships, and priorities to prevent youth violence in a local community.

In addition, one ACE Coordinating Center is funded to initiate, foster, and support coordinated efforts, including the development and dissemination of activities and products in youth violence research and practice, among the ACEs, UPACEs, and CDC. It also aims to facilitate increased collaboration among organizations working to prevent youth violence to support the sustainability of youth violence prevention programs.

The Academic Centers of Excellence on Youth Violence Prevention Program Information System will collect, in electronic format: (a) Data needed to measure progress toward, or achievement of, performance indicators and other outcomes and (b) information on Academic Centers of Excellence on Youth Violence Prevention that is currently being collected in various electronic and paper documents.

An Internet-based information system will allow CDC to monitor, and report on, ACE activities more efficiently. Data reported to CDC through the ACE information system will be used by CDC to identify training and technical assistance needs, monitor compliance with cooperative agreement requirements, evaluate the progress made in achieving center-specific goals, and obtain information needed to respond to Congressional and other inquiries regarding program activities and effectiveness.

There are no costs to respondents except their time to enter data into the Information System.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondents	Average burden per response (in hrs.)	Total burden (in hours)
Clerical	11	2	320/60	117
Directors/PI	11	2	120/60	44
Total	22			161

Dated: April 5, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–6824 Filed 4–10–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meetings of the Advisory Committee for Injury Prevention and Control (ACIPC), and Its Subcommittee, the Science and Program Review Subcommittee (SPRS or the Subcommittee)

Correction: This notice was published in the **Federal Register** on April 2, 2007, Volume 72, Number 62, page 15698. Part of the address for the ACIPC full meeting was omitted. The complete address is Koger Center, Vanderbilt Building, Room 1004 A/B, 2939 Flowers Road, South, Atlanta, GA 30341.

Contact Person for More Information: Ms. Amy Harris, Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway NE, M/S K61, Atlanta, Georgia 30341–3724, telephone (770) 488–4936.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 4, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 07–1817 Filed 4–10–07; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007F–0115]

Durand-Wayland, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Durand-Wayland, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a carbon dioxide laser for etching information on food, excluding meat and poultry.

FOR FURTHER INFORMATION CONTACT: Paul C. DeLeo, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1302.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7M4768) has been filed by Durand-Wayland, Inc., c/o Hyman, Phelps & McNamara, P.C., 700 13th St., NW., suite 1200, Washington, DC 20005–5929. The petition proposes to amend the food additive regulations in 21 CFR part 179 to provide for the safe use of a carbon dioxide laser for etching information on food, excluding meat and poultry.

The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 4, 2007.

Laura M. Tarantino,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. E7–6765 Filed 4–10–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Office of the National Protection and Programs Directorate; Submission for Extension of a Currently Approved Information Collection Request

AGENCY: Cyber Security and Communications Division, National Communications System, Office of the National Protection and Programs Directorate, Department of Homeland Security. (Telecommunications Service Priority (TSP) System).

ACTION: Notice; 60-day notice request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on approved information collection request (ICR) OMB 1670–0005, Telecommunications Service Priority (TSP) System. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for the approved information collection request.

DATES: Written comments should be received on or before June 11, 2007 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be forwarded to National Communication System, Deborah Bea, Program Manager, P.O. Box 4502, Arlington, VA 22204, Phone 703–607–4933, Fax 703–607–4937 or e-mail *tsp@ncs.gov.*

FOR FURTHER INFORMATION CONTACT: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/NPPD, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Direct all written comments to both the Department of Homeland Security and the Office of Information and Regulatory Affairs at the above addresses. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed above.

The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs, Cyber Security and Communications Division, National Communications System.

Title: Telecommunications Service Priority (TSP) System.

OMB Number: 1670–0005.

Frequency: On occasion.

Affected Public: Individuals or households; businesses or other for-profit; not-for-profit institutions; State, local or tribal government; foreign government.

Estimated Number of Respondents: 37.

Estimated Time Per Respondent:
SF314: .05 Minutes.
SF315: 1.25 Hours.
SF317: 3.0 Hours.
SF318: .05 Hours.
SF319: 8.0 Hours.

Total Burden Hours: 2,762.

Total Burden Cost: (Capital/startup): $0.

Total Burden Cost: (Operating/maintaining): $205,500 annually.

Description: The Telecommunications Service Priority (TSP) System provide telecommunications service vendors a means of identifying the services that should be restored or provisioned first in the event of an emergency or crisis; and the legal protection giving a preference to certain users over others. This critical aspect of the TSP program benefits government at all levels as well as the general public.

Charlie Church,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E7–6783 Filed 4–10–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Privacy Office; Published Privacy Impact Assessments on the Web

AGENCY: Privacy Office, Office of the Secretary, DHS.

ACTION: Notice of Publication of Privacy Impact Assessments.

SUMMARY: The Privacy Office of the Department of Homeland Security is making available four (4) Privacy Impact Assessments on various programs and systems in the Department. These assessments were approved and published on the Privacy Office's Web site between January 19, 2007 and February 28, 2007.

DATES: The Privacy Impact Assessments will be available on the DHS Web site until June 11, 2007, after which they may be obtained by contacting the DHS Privacy Office (contact information below).

FOR FURTHER INFORMATION CONTACT: Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, Mail Stop 0550, 601 S. 12th Street, Arlington, VA 22202–4220; by telephone (571) 227–3813, facsimile (866) 466–5370, or e-mail: *pia@dhs.gov.*

SUPPLEMENTARY INFORMATION: February 1, 2007 and February 28, 2007, the Chief Privacy Officer of the Department of Homeland Security (DHS) approved and published four (4) Privacy Impact Assessments (PIAs) on the DHS Privacy Office Web site, *http://www.dhs.gov/privacy,* under the link for ''Privacy Impact Assessments.'' Below is a short summary of the systems, indicating the DHS component responsible for the system, and the date on which the PIA was approved. Additional information can be found on the Web site or by contacting the Privacy Office.

System: Transportation Security Administration's Claims Management System.

Component: Transportation Security Administration (TSA).

Date of approval: February 5, 2007.

TSA has created the Claims Management System (CMS). The TSA Claims Management Office (CMO) investigates and adjudicates Federal tort claims filed against TSA. The CMO developed the CMS as the primary tool for the CMO to receive, investigate, and adjudicate Federal tort claims against TSA. This PIA covers the claims submission process.

System: Sensitive Security Information (SSI).

Component: Transportation Security Administration (TSA).

Date of approval: December 28, 2006.

TSA is implementing a process whereby a party seeking access to SSI in a civil proceeding in a Federal court that demonstrates substantial need for relevant SSI in preparation of the party's case may request access to SSI. In order to determine if an individual representing the party may receive access to SSI for this purpose, TSA will conduct a threat assessment that includes a fingerprint-based criminal history records check (CHRC) and a name-based check.

System: Map Service Center (MSC).

Component: Federal Emergency Management Agency (FEMA).

Date of approval: February 12, 2007.

The National Flood Insurance Program (NFIP) MSC (formerly known as the NFIP Information Exchange) exists to provide immediate access to flood map information for any area in the United States to anyone needing map information. The NFIP MSC is FEMA's distribution center for the NFIP's 100,000 Flood Insurance Rate Maps, 12,000 flood studies, and other related material. A user may freely view the entire map online or purchase a paper map, purchase a digital version of the map on compact disc, or download the map from the Web site. It is the collection of personally identifiable information associated with the collection of customer information that is the reason for and subject of this PIA.

System: DHScovery.

Component: Management, Office of Chief Human Capital Officer.

Date of approval: January 19, 2007.

DHScovery is owned by the Office of the Chief Information Officer (OCIO) in partnership with the Office of the Chief Human Capital Officer (OCHCO). DHScovery will create an e-training environment that supports development of the Department of Homeland Security (DHS) workforce through simplified one-stop access to high quality e-training products and services. This PIA allows DHScovery to collect personally identifiable information about DHS employees and contractors.

Dated: April 4, 2007.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E7–6860 Filed 4–10–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning April 1, 2007, the interest rates for overpayments will remain at 7 percent for corporations and 8 percent for non-corporations, and the interest rate for underpayments will remain at 8 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: April 1, 2007.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2007–16, the IRS determined the rates of interest for the calendar quarter beginning April 1, 2007, and ending June 30, 2007. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentage points (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change for the calendar quarter beginning July 1, 2007, and ending September 30, 2007.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning Date	Ending Date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7

Beginning Date	Ending Date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	063007	8	8	7

Dated: April 5, 2007.

Deborah J. Spero,

Acting Commissioner, Customs and Border Protection.

[FR Doc. E7–6820 Filed 4–10–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed continuing information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the renewal of FEMA's National Flood Insurance Program's (NFIP) Biennial Report forms (FEMA Form 81–28, FEMA Form 81–29, FEMA Form 81–29A).

SUPPLEMENTARY INFORMATION: Under 44 CFR 59.22(b)(2), FEMA requires that communities participating in the NFIP submit an annual or biennial report describing the progress made during the year in the implementation and enforcement of floodplain management regulations. Currently, FEMA has determined that this data will be collected on a biennial reporting cycle and the data collection is now referred to as the Biennial Report. As a supplement to the Biennial Report, FEMA has been mandated under section 575 of the National Flood Insurance Reform Act (NFIRA) of 1994 to assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under section 1360 of the National Flood Insurance Act of 1968. The NFIP Biennial Report enables FEMA to meet its regulatory requirement under 59.22(b)(2). It also enables FEMA to be more responsive to the on-going changes that occur in each participating community's flood hazard area. These changes include, but are not limited to, new corporate boundaries, changes in flood hazard areas, new floodplain management measures, and changes in rate of floodplain development. It is also used to evaluate the effectiveness of the community's floodplain management activities. The evaluation is accomplished by analyzing information provided by the community, such as the number of variances and floodplain permits granted by each community in relationship to other information contained in the Biennial Report, as well as other data available in FEMA's Community Information System (CIS). The Biennial Report also provides an opportunity for NFIP participating communities to request technical assistance in implementing a floodplain management program. FEMA regional offices use this information as a means to know which communities need support and guidance.

In addition, the NFIP Biennial Report is one of the tools used to assist FEMA in meeting its regulatory requirement under section 575 of the NFIRA. A ''yes'' answer to Items A–D in section I of the report will provide the basis for FEMA to follow-up by contacting the community for clarification and/or elaboration regarding changes and activities occurring in a community's flood hazard area. This information will be used in ranking and prioritizing one community's mapping needs against all other communities in the NFIP and for determining how the limited flood hazard mapping funds are allocated for map updates.

Collection of Information

Title: The National Flood Insurance Program Biennial Report.

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

OMB Number: 1660–0003.

Form Numbers: FEMA Form 81–28, FEMA Form 81–29, FEMA Form 81–29A.

Abstract: The NFIP Biennial Report enables FEMA to meet its regulatory requirement under 44 CFR 59.22(b)(2). It also enables FEMA to be more responsive to the on-going changes that occur in each participating community's flood hazard area. These changes include, but are not limited to, new corporate boundaries, changes in flood hazard areas, new floodplain management measures, and changes in rate of floodplain development. It is also used to evaluate the effectiveness of the community's floodplain management activities. The evaluation is accomplished by analyzing information provided by the community, such as the number of variances and floodplain permits granted by each community in relationship to other information contained in the Biennial Report, as well as other data available in FEMA's CIS. The Biennial Report also provides an opportunity for NFIP participating communities to request technical assistance in implementing a floodplain management program. FEMA regional offices use this information as a means to know which communities need support and guidance. The NFIP Biennial Report is one of the tools used to assist FEMA in meeting its regulatory requirement under section 575 of the NFIRA.

Affected Public: The respondents are State, local or tribal governments, farms, individuals or households, business or other for-profit, not-for-profit institutions representing the estimated 20,500 United States and United States territorial communities that are participating members of the NFIP. The NFIP requires that communities

participating in the NFIP submit an annual or biennial report describing the progress made during the year in the implementation and enforcement of floodplain management regulations.

Estimated Total Annual Burden Hours: The estimated total annualized burden hours for the Biennial Report are 24,501 burden hours.

ANNUAL BURDEN HOURS

Project/activity (survey, form(s), focus group, worksheet, etc.)	Number of respondents	Frequency of responses *	Burden hours per respondent	Annual responses	Total annual burden hours
	(A)	(B)	(C)	(D) = (A × B)	(E) = (C × D)
FF 81–28	5,930	0.5	2.0	2,965	5,930
FF 81–29	12,224	0.5	3.0	6,112	18,336
FF 81–29A	2,346	0.5	0.2	1,173	235
Total	20,500				24,501

* The response frequency to the Biennial Report is used just once every two years. Therefore, 0.5 was used for the table above.

Estimated Cost: The estimated annual cost of the collection of the Biennial Report forms is estimated to be $457,180.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before June 11, 2007.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 609, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Rachel Sears, Program Specialist, Risk Reduction Branch, at telephone number (202) 646–2977 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: April 2, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–6788 Filed 4–10–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1687–DR]

Alabama; Amendment No. 3 to Notice of a Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama (FEMA–1687–DR), dated March 3, 2007, and related determinations.

EFFECTIVE DATE: March 30, 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 March 30, 2007, the President amended the cost sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), in a letter to R. David Paulison, Director, Federal Emergency Management Agency, Department of Homeland Security, as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from severe storms and tornadoes on March 1, 2007, is of sufficient severity and magnitude that special cost-sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act).

Therefore, I amend my declaration of March 3, 2007, to authorize Federal funds for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program at 100 percent of total eligible costs, for a period of up to 48 hours.

This adjustment to State and local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under applicable law. The Stafford Act specifically prohibits a similar adjustment for funds provided to States for Other Needs Assistance (Section 408) and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

This cost share is effective for the designated period at any time for which Category A and B costs are eligible under the President's major disaster declaration.

(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. E7–6818 Filed 4–10–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1686–DR]

Georgia; Amendment No. 4 to Notice of a Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia (FEMA–1686–DR), dated March 3, 2007, and related determinations.

EFFECTIVE DATE: March 30, 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 March 30, 2007, the President amended the cost sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), in a letter to R. David Paulison, Director, Federal Emergency Management Agency, Department of Homeland Security, as follows:

I have determined that the damage in certain areas of the State of Georgia resulting from severe storms and tornadoes during the period of March 1–2, 2007, is of sufficient severity and magnitude that special cost-sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act).

Therefore, I amend my declaration of March 3, 2007, to authorize Federal funds for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program at 100 percent of total eligible costs, for a period of up to 48 hours.

This adjustment to State and local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under applicable law. The Stafford Act specifically prohibits a similar adjustment for funds provided to States for Other Needs Assistance (Section 408) and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

This cost share is effective for the designated period at any time for which Category A and B costs are eligible under the President's major disaster declaration.

(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. E7–6819 Filed 4–10–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3275–EM]

Iowa; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Iowa (FEMA–3275–EM), dated March 30, 2007, and related determinations.

EFFECTIVE DATE: March 30, 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 March 30, 2007, the President declared an emergency declaration 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 impact in certain areas of the State of Iowa resulting from the record snow and near record snow during the period of February 28 to March 2, 2007, is of sufficient severity and magnitude to warrant an emergency 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 an emergency exists in the State of Iowa.

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 emergency protective measures, including snow removal, under the Public Assistance program to save lives and to protect property and public health and safety. Other forms of assistance under Title V of the Stafford Act may be added at a later date, as you deem appropriate. This emergency assistance will be provided for any continuous 48-hour period during or proximate to the incident period. You may extend the period of assistance, as warranted. This assistance excludes regular time costs for the sub-grantees' regular employees. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs in the designated areas. 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, Department of Homeland Security, under Executive Order 12148, as amended, Carlos Mitchell, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Iowa to have been affected adversely by this declared emergency:

Adair, Audubon, Buena Vista, Carroll, Cass, Clay, Crawford, Emmet, Greene, Guthrie, Hancock, Harrison, Humboldt, Kossuth, Monona, O'Brien, Palo Alto, Pocahontas, Pottawattamie, Sac, Shelby, Winnebago, and Wright Counties for emergency protective measures (Category B) 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. E7–6790 Filed 4–10–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Aircraft Operator Security

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on November 2, 2006 (71 FR 64547).

DATES: Send your comments by May 11, 2007. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3651; facsimile (571) 227–3588.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Aircraft Operator Security.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0003.

Forms(s): NA.

Affected Public: Aircraft operators regulated by 49 CFR part 1544.

Abstract: As part of the aircraft operator security standards TSA has implemented at 49 CFR part 1544, aircraft operators are required to maintain and update, as necessary, records of compliance with the security program provisions outlined in part 1544. This regulation also requires aircraft operators to make their security programs and associated records available for inspection by TSA to ensure security, safety, and regulatory compliance. Under this regulation, aircraft operators must ensure flight crew members and employees with unescorted access authority or who perform screening functions submit to a criminal history records check (CHRC). In order to conduct a CHRC, these individuals must provide their identifying information to the aircraft operator, including fingerprints. In addition to conducting CHRCs and maintaining security program documents, these aircraft operators devote considerable time to comparing passenger names to watch lists distributed by TSA. The collection requirements associated with aircraft operator security programs remain critical in the aftermath of the terrorist attacks of September 11, 2001.

Number of Respondents: 830. The 80 respondents listed in the November 2, 2006, notice represent airlines holding a full Aircraft Operator Standard Security Program (AOSSP). These aircraft operators generally provide scheduled passenger service and tend to be larger companies. In addition to these respondents, TSA is adding 750 aircraft operators who maintain a Twelve-Five Standard Security Program (TFSSP), a Private Charter Standard Security Program (PCSSP), a specialized limited program, or a partial program as described in § 1544.101. Aircraft operators that maintain a specialized limited program typically provide on-demand air service, as well as scheduled service and tend to be smaller companies. Part 1544 also governs recordkeeping requirements for aircraft operators maintaining a full All-Cargo Standard Security Program; however, their hour burden has been separately reported under OMB control number 1652–0040. Thus, the total number of respondents claimed under this information collection is 830.

Estimated Annual Burden Hours: An estimated 1,625,000 hours annually. TSA revised the estimate published in its November 2, 2006, notice to more accurately reflect the time and effort the respondents are expending in order to comply with the security program requirement and to compare passenger names against watch lists distributed by TSA. While TSA directs aircraft operators to conduct these watch lists checks, it does not specify how they are to do so; thus, actual hour burdens for the watch lists comparison vary widely across the industry. TSA estimates 80 AOSSP aircraft operators devote approximately 1.4 million hours per year to conduct TSA watch list comparisons and report matches to TSA, perform CHRCs, and maintain their security programs. TSA estimates the 750 TFSSP, PCSSP, limited, and partial program aircraft operators devote approximately 230,250 hours per year to conduct TSA watch list comparisons and report matches to TSA, perform CHRCs, and maintain their security programs.

Issued in Arlington, Virginia, on April 4, 2007.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E7–6763 Filed 4–10–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–29]

Notice of Submission of Proposed Information Collection to OMB; Survey of HUD-Approved Housing Counseling Agencies

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The survey will gather information on the organizational characteristics of all HUD-approved housing counseling agencies, including the type of services they provide, number and characteristics of their staff, size of their budget for counseling services and sources of funds, the characteristics of their counseling service delivery process and opinions regarding key policy issues facing the industry. This survey is part of a broader study to help inform HUD's efforts to support the housing counseling industry by providing more systematic information and it will lay the groundwork for an impact evaluation of pre-purchase housing counseling.

DATES: *Comments Due Date:* May 11, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–NEW) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Survey of HUD-Approved Housing Counseling Agencies.

OMB Approval Number: 2528–NEW.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The survey will gather information on the organizational characteristics of all HUD-approved housing counseling agencies, including the type of services they provide, number and characteristics of their staff, size of their budget for counseling services and sources of funds, the characteristics of their counseling service delivery process and opinions regarding key policy issues facing the industry. This survey is part of a broader study to help inform HUD's efforts to support the housing counseling industry by providing more systematic information and it will lay the groundwork for an impact evaluation of pre-purchase housing counseling.

Frequency of Submission: Other one time.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	2,200	0.8		1		1,760

Total Estimated Burden Hours: 1,760.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 5, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–6767 Filed 4–10–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The public is invited to comment on the following application to conduct certain activities with endangered species.

DATES: We must receive written data or comments on these applications at the address given below, by May 11, 2007.

ADDRESSES: Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589 (Attention: Heather Bell, Permit Biologist).

FOR FURTHER INFORMATION CONTACT: Heather Bell, telephone 413–253–8645; facsimile 413–253–8428.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following amendment application for permits to conduct certain activities with endangered and threatened species. This notice is provided under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the U.S. Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or via electronic mail to *heather_bell@fws.gov*. Please include your name and return address in your electronic mail message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your electronic mail message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT** section). Finally, you may hand deliver comments to the U.S. Fish and Wildlife Service office listed above (see **ADDRESSES** section).

We will make all submissions from organizations or businesses, and from individuals identifying themselves as

representatives or officials of organizations or businesses, available for public inspection in their entirety. We will not consider anonymous comments. Before including your address, the telephone number, electronic mail addresses, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Applicant: New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, Albany, New York, 12233–4750.

The applicant requests an authorization to amend an existing permit (TE838253) that allows take (harm and/or harass during transport, captivity, and release) of the Karner blue butterfly (*Lycaeides melissa samuelis*) to include headstarting, a process of holding eggs and larvae in captivity until pupation. The permit would continue to apply throughout Albany, Schenectady, Saratoga, Warren, Erie, and Oneida Counties of New York for the purpose of enhancement and survival of the species.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 12, 2007.

Richard O. Bennett,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.

[FR Doc. E7–6834 Filed 4–10–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–12210, AA–12211, AA–12212, AA–12213, AA–12214, AA–12215, AA–12217, AA–12206, AA–12208, AA–12203, AA–12204, AA–12202, AA–12201, AA–12200, AA–12188, AA–12189, AA–12190, AA–12186, AA–12191, AA–12192, AA–12193, AA–12194, AA–12195, AA–12197, AA–12198, AA–12181, AA–12182, AA–12187, AA–12183, AA–12184, AA–12185, AA–12172, AA–12180, AA–12173, AA–12179, AA–12177, AA–12170, AA–12174, AA–12169, AA–12178, AA–12167, AA–12168, AA–12166, AA–12176, AA–12165, AA–12175; AK–964–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to The Aleut Corporation. The lands are located in the vicinity of Atka, Alaska.

Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until May 11, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–6825 Filed 4–10–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14931–B; AK–964–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Zho-Tse, Incorporated. The lands are in the vicinity of Shageluk, Alaska, and are located in:

Seward Meridian, Alaska

T. 32 N., R. 54 W., secs. 24, 25, and 36.
Containing 1,689.82 acres.

T. 29 N., R. 55 W., secs. 1, 12, and 13.
Containing 1,897.86 acres.

T. 32 N., R. 55 W., sec. 33.
Containing 556.00 acres.

T. 28 N., R. 56 W., secs. 5 and 6.
Containing 988.55 acres.

T. 29 N., R. 56 W., secs. 26, 27, and 35.
Containing 1,769.06 acres.

T. 30 N., R. 56 W., secs. 20, 21, 26, and 27.
Containing 2,225.18 acres.

T. 31 N., R. 56 W., secs. 4, 9, and 16.
Containing 1,616.74 acres.

Aggregating 10,743.21 acres.

The subsurface estate in these lands will be conveyed to Doyon, Limited, when the surface estate is conveyed to Zho-Tse, Incorporated. Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until May 11, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Barbara Opp Waldal,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–6830 Filed 4–10–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Availability of the Proposed Notice of Sale for Outer Continental Shelf (OCS) Oil and Gas Lease Sale 204 in the Western Gulf of Mexico (GOM)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the proposed Notice of Sale for proposed Sale 204.

SUMMARY: The MMS announces the availability of the proposed Notice of Sale for proposed Sale 204 in the Western GOM OCS. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

DATES: Comments on the size, timing, or location of proposed Sale 204 are due from the affected States within 60 days following their receipt of the proposed Notice. The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 22, 2007.

SUPPLEMENTARY INFORMATION: The proposed Notice of Sale for Sale 204 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

Dated: April 6, 2007.

R. M. ''Johnnie'' Burton,

Director, Minerals Management Service.

[FR Doc. 07–1804 Filed 4–10–07; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Merced Wild and Scenic River Comprehensive Management Plan; Yosemite National Park, Mariposa and Madera Counties, CA; Notice of Intent To Prepare an Environmental Impact Statement

Summary: Pursuant to the National Environmental Policy Act (Pub. L. 91–190) and the Wild and Scenic Rivers Act (Pub. L. 90–542), the National Park Service is initiating public scoping for the conservation planning and environmental impact analysis process for a Merced Wild and Scenic River Comprehensive Management Plan (MRP) and Environmental Impact Statement (EIS) in Yosemite National Park. The MRP/EIS will be a comprehensive document that guides future management of the Merced River corridor, and will comply with all applicable legal requirements. The purpose of this scoping outreach is to solicit early public comments about issues and concerns that should be addressed in the plan, including a suitable range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts.

Background: In 1987, Congress designated 122 miles of the Merced River and its South Fork as Wild and Scenic, including the 81 miles within Yosemite National Park and the El Portal Administrative Site. The National Park Service (NPS) completed the Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement in August, 2000. Soon after, two citizen's groups filed suit in the U.S. District Court for the Eastern District of California. This initiated a series of court proceedings that culminated in a 2006 District Court decision that invalidated the park's revised 2005 plan, the Merced Wild and Scenic River Revised Comprehensive Management Plan/Supplemental Environmental Impact Statement. Subsequently, the court ordered the NPS to prepare a new comprehensive management plan. On January 9, 2007, the NPS proposed a 33-month timeline to the court for the preparation of the new MRP/EIS, which would result in a Record of Decision on September 30, 2009.

Scoping and Public Meetings: The participation of interested individuals and organizations is important to the conservation planning and environmental impact analysis process. During the scoping phase, the public is invited to share ideas and concerns that should be considered in development of the draft MRP. Yosemite National Park will consult tribal, federal, state, and local governments, and will receive public input during an extended period concluding 60 days from the date of publication of this Notice in the **Federal Register**. The scoping period will be publicized via the internet, direct mailings, and press releases distributed to local and regional media. Dates, times, specific locations, and additional information will be available in regional and local news sources, and updates will be available at *http://www.nps.gov/yose/planning/*.

Written comments should be addressed to the Superintendent, Attn: Merced River Plan, Yosemite National Park, PO Box 577, Yosemite National Park, California 95389, or faxed to (209) 379–1294. All comments must be postmarked or faxed not later than 60 days from the publication date of this Notice in the **Federal Register** (or if sent via e-mail, transmitted by that date to *Yose_Planning@nps.gov*). Immediately upon confirmation of this date it will be announced on the project Web site and via announcements in local and regional press media.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Decision Process: Information about future public involvement opportunities, including workshops for preliminary alternatives formulation and the later public review of the draft EIS, will be publicized in regional news media, by mailings, and postings to the project's Web site. Following due consideration of comments received in response to the draft EIS, a final EIS will be prepared. As a delegated EIS the official responsible for approval of the MRP is the Regional Director, Pacific West Region (at this time a decision is anticipated during September, 2009). Subsequently the Superintendent, Yosemite National Park would be responsible for implementing the MRP.

Dated: February 12, 2007.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. E7–6832 Filed 4–10–07; 8:45 am]

BILLING CODE 4312–F4–P

DEPARTMENT OF THE INTERIOR

National Park Service

Flight 93 National Memorial Advisory Commission; Notice of meeting

AGENCY: National Park Service.

ACTION: Notice of April 28, 2007 meeting.

SUMMARY: This notice sets forth the date of the April 28, 2007 meeting of the Flight 93 Advisory Commission.

DATES: The public meeting of the Advisory Commission will be held on Saturday, April 28, 2007 from 12 noon to 3 p.m. (Eastern) and 9 a.m. to 12 noon (Pacific). The Commission will meet jointly with the Flight 93 Memorial Task Force.

Location: The meeting will be held in Fort Mason, Building 201, Golden Gate National Parks, San Francisco, California 94123–0022. To access Fort Mason, please use the entrance at Franklin and Bay Streets.

The meeting will be connected to the East Coast via teleconference at the Flight 93 National Memorial Office, 109 West Main Street, Suite 104, Somerset, Pennsylvania 15501. The public is encouraged and welcome to attend either the west coast meeting or the east coast teleconference.

Agenda: The April 28, 2007 joint Commission and Task Force meeting will consist of:

(1) Opening of Meeting and Pledge of Allegiance.

(2) Review and Approval of Commission Minutes from January 27, 2007.

(3) Reports from the Flight 93 Memorial Task Force and National Park Service. Comments from the public will be received after each report and/or at the end of the meeting.

(4) Old Business.

(5) New Business.

(6) Public Comments.

(7) Closing Remarks.

FOR FURTHER INFORMATION CONTACT: Joanne M. Hanley, Superintendent, Flight 93 National Memorial, 109 West Main Street, Somerset, PA 15501, 814.443.4557.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. Address all statements to: Flight 93 Advisory Commission, 109 West Main Street, Somerset, PA 15501.

Dated: March 23, 2007.

Joanne M. Hanley,

Superintendent, Flight 93 National Memorial.

[FR Doc. 07–1781 Filed 4–10–07; 8:45 am]

BILLING CODE 4312–25–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 06–68]

Bourne Pharmacy, Inc.; Revocation of Registration

On July 26, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Bourne Pharmacy, Inc., (Respondent) of Buzzards Bay, Massachusetts. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, AB2802468, as a retail pharmacy, and to deny any pending applications for renewal or modification of the registration, on the ground that Respondent's continued registration would be inconsistent with the public interest. Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)(4)).

The Show Cause Order alleged that on September 21, 2005, investigators from DEA and the Massachusetts Board of Pharmacy had executed an administrative inspection warrant at Respondent and found it to be in violation of various federal regulations. *See id.* at 2. Specifically, the Show Cause Order alleged that: (1) Respondent had failed to maintain a biennial inventory as required by 21 CFR 1304.11(c) and 1304.21, (2) had failed to maintain drug destruction records as required by 21 CFR 1304.21(a), (3) was storing controlled substances at a non-registered location in violation of 21 CFR 1304.04, and (4) was improperly storing order forms for Schedule II controlled substances. Show Cause Order at 2.

The Show Cause Order further alleged that on August 22, 2005, Dr. Michael Brown, a Massachusetts based physician, was arrested and charged with various drug offenses under state law, including conspiracy to violate drug laws and possession of various categories of controlled substances with the intent to distribute. *See id.* at 2. According to the Show Cause Order, investigators further determined that during the calendar year 2005, forty-five percent of the prescriptions for Schedule II controlled substances filled by Respondent were written by Dr. Brown; in the month of April 2005 alone, 92 of 168 Schedule II prescriptions filled by Respondent were written by Dr. Brown. *Id.* at 2–3.

Finally, the Show Cause Order alleged that on October 25, 2005, the Massachusetts Board of Pharmacy had issued a ''Final Order of Summary Suspension,'' which suspended Respondent's state pharmacy permit and controlled substance registration, and that these suspensions remain in effect. *Id.* at 3. The Show Cause Order thus alleged that Respondent lacked authority under state law to handle controlled substances and that this authority is ''a necessary prerequisite for DEA registration.'' *Id.*

Respondent, through its counsel, requested a hearing; the matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. Shortly thereafter, the Government moved for summary disposition on the ground that the Massachusetts Board of Pharmacy had issued a Final Order of Summary Suspension against Respondent's state pharmacy permit and the pharmacist's license of its owner (Mr. Gerald Liberfarb) and pharmacist in charge. Mot. for Summ. Disp. at 2. Attached to the Government's motion was the State's summary suspension order, as well as a copy of Respondent's DEA registration (which does not expire until July 31, 2008). *See* Attachments 1 & 2 to Mot. for Summ. Disp.

Respondent opposed the Government's motion. Respondent contended that ''on October 24, 2005, [it] had already voluntarily surrendered its [state] registered drug store certificate'' and controlled substance registration to the Massachusetts Department of Public Health, ''to be held in escrow pending a hearing on the merits to be held * * * before the Board of Registration in Pharmacy.'' Resp. Opp. at 1. Respondent also argued that the Massachusetts Board ''has never implemented or executed the Final Order of Summary Suspension,'' and that it has meritorious defenses to the DEA Show Cause Order. *Id.* Finally, Respondent contended that it was ''both premature and unduly prejudicial to act upon the Government's Motion * * * until after [the] state agency'' held its hearing and made a decision. *Id.* at 2.

In support of its contention, Respondent's counsel attached a letter he had written to an attorney for the State Board memorializing the fact that Respondent had delivered its state registration and certificates to be held by the State ''in escrow until a final decision is issued on the merits.'' Ex. 1 to Resp. Opp. Respondent also attached other documents including a ''Notice of Fourth Rescheduled Hearing,'' Ex. 2 to

Resp. Opp., and a ''Rescheduled Second Pre-Hearing Conference Order.'' Ex. 3 to Resp. Opp.

The ALJ granted the Government's motion. The ALJ found that there was no material factual dispute regarding whether Respondent currently has authority under Massachusetts law to handle controlled substances. ALJ Dec. at 3. The ALJ specifically rejected Respondent's contention that its state controlled substance registration had not been suspended, but rather, was being held in escrow by the Massachusetts Board pending a final decision. *Id.* Relatedly, the ALJ also dismissed Respondent's argument that the State never implemented the summary suspension order, reasoning that ''whether the license is suspended pending a hearing on the merits, or is held in escrow,'' is irrelevant, because ''[i]n either event, Respondent is without authority to handle controlled substances in Massachusetts.'' *Id.* The ALJ thus held that Respondent is not entitled to maintain its DEA registration and recommended that I revoke Respondent's registration. The ALJ then forwarded the record to me for final agency action.

Having considered the record as a whole, I adopt the ALJ's holding that Respondent is currently without authority to handle controlled substances in Massachusetts and is therefore not entitled to maintain its DEA registration. Here, the State's ''Final Order of Summary Suspension,'' which is signed by the Board's President, clearly ordered the suspension, effective October 23, 2005, of Respondent's state controlled substance registration ''pending a final decision on the merits.''

Respondent's assertion that the State ''has never executed or implemented the Final Order of Summary Suspension'' does not raise a genuine issue of fact that requires a hearing to resolve. Respondent's evidence—*i.e.*, a letter to the Board's lawyer discussing an agreement to surrender its state registration to be held in escrow pending a final decision—does not create a factual dispute as to whether Respondent's state registration has been suspended. As a leading authority explains, ''evidence in opposition to the motion that is clearly without any force is insufficient to raise a genuine issue.'' Charles Allen Wright, *et al.*, *Federal Practice and Procedure* section 2727 (3d. ed. 2006).[1] In short, this letter contains nothing that refutes the Government's assertion that Respondent's state controlled substance registration has been suspended.

Under the Controlled Substances Act (CSA), it is irrelevant that Respondent's state registration is being held in escrow pending state proceedings. Under the Act, a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which [it] practices'' in order to maintain its DEA registration. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a * * * pharmacy * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which [it] practices * * * to * * * dispense * * * a controlled substance in the course of professional practice''). *See also id.* section 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which [it] practices.'').

Furthermore, in section 304, Congress expressly authorized the revocation of a DEA registration issued to a registrant whose ''State license or registration [has been] suspended * * * by competent State authority and is no longer authorized by State law to engage in the * * * dispensing of controlled substances.'' *Id.* section 824(a)(3). By definition, a suspension is of a finite duration. *See Merriam-Webster's Collegiate Dictionary* 1187 (10th ed. 1998) (defining ''suspend'' as ''to debar temporarily from a privilege * * * or function''). Under the CSA, it does not matter whether the suspension is for a fixed term or for a duration which has yet to be determined because it is continuing pending the outcome of a state proceeding. Rather, what matters—as DEA has repeatedly held—is whether Respondent is without authority under Massachusetts law to dispense a controlled substance. *See Oakland Medical Pharmacy,* 71 FR 50100, 50,102 (2006) (''a registrant may not hold a DEA registration if it is without appropriate authority under the laws of the state in which it does business''); *Accord Rx Network of South Florida, LLC,* 69 FR 62,093 (2004); *Wingfield Drugs, Inc.,* 52 FR 27,070 (1987).

Because the State suspended its controlled substances registration, Respondent clearly lacks authority under Massachusetts law to handle controlled substances. Therefore, it is not entitled to maintain its DEA registration.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) and 0.104, I hereby order that DEA Certificate of Registration, AB2802468, issued to Bourne Pharmacy, Inc., be and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective May 11, 2007.

Dated: March 30, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–6760 Filed 4–10–07; 8:45 am]

BILLING CODE 4410–09–P

[1] Respondent's other evidence likewise does not create a factual dispute as to whether its state controlled substance registration has been suspended.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 06–58]

Piyush V. Patel, M.D.; Revocation of Registration

On May 9, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Piyush V. Patel, M.D. (Respondent) of Midland, Texas. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, AP1614800, as a practitioner, on the ground that Respondent's license to practice medicine in the State of Texas had been revoked, and that Respondent was therefore ''without authority to handle controlled substances in Texas, the State in which [he] practices.'' Show Cause Order at 1. The Show Cause Order also informed Respondent of his right to request a hearing.

Respondent, acting *pro se,* filed a timely request for a hearing; the matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. In that request, Respondent stated that he was currently incarcerated and requested that the hearing be delayed until after his release on April 7, 2007. Respondent also indicated that he was not currently licensed by the Texas State Board of Medical Examiners.

On June 21, 2006, the Government moved for summary disposition on the ground that Respondent was ''not currently authorized to engage in the active practice of medicine or to handle controlled substances in Texas.'' Mot. for Summary Disp. at 2. In support of its motion, the Government attached an ''Agreed Order'' (dated August 26, 2005) which Respondent had entered into with the Texas State Board of Medical

Examiners. Under the order, Respondent's Texas medical license was revoked.

Thereafter, on July 13, 2006, the ALJ denied Respondent's request to stay the hearing until after his release from prison. ALJ Dec. at 2. The ALJ further ordered that Respondent file a response to the Government's motion by August 3, 2006. Respondent, however, failed to do so.

Thereafter, the ALJ granted the Government's motion. The ALJ noted that Respondent ''acknowledges that his license to practice medicine in Texas is revoked, and will remain revoked at least until his release from prison on April 7, 2007.'' *Id.* As this material fact was undisputed, the ALJ held that because ''Respondent lacks state authority, he is not entitled to a DEA registration in Texas,'' and therefore recommended that Respondent's registration be revoked. *Id.* at 2–3. The ALJ then forwarded the record to me for final agency action.

Having considered the record as a whole, I adopt the ALJ's recommendation that Respondent's registration be revoked. But in doing so, I decline to adopt the ALJ's reasoning to the extent it relies solely on the Texas State Board of Medical Examiner's revocation of Respondent's medical license. Under Texas law, a practitioner must obtain a separate state registration to dispense a controlled substance. Texas Health & Safety Code § 481.061. The record, however, contains no evidence regarding the status of Respondent's state registration.

Therefore, in accordance with 5 U.S.C. 556(e), I take official notice of the fact that according to the Texas Department of Public Safety's Controlled Substances Registration verification search page, Respondent is not currently registered to dispense controlled substances in the State.[1]

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice''). *See also id.* section 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.''). DEA has held repeatedly that the CSA requires the revocation of a registration issued to a practitioner who no longer possesses authority under state law to handle controlled substances. *See Sheran Arden Yeates,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988). *See also* 21 U.S.C. 824(a)(3) (authorizing the revocation of a registration ''upon a finding that the registrant * * * has had his State license or registration suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substances''). Therefore, Respondent's DEA registration must be revoked.[2]

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, AP1614800, issued to Piyush V. Patel, M.D., be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective May 11, 2007.

Dated: March 30, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–6761 Filed 4–10–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 05–8]

Rick's Picks, L.L.C.; Revocation of Registration

On October 7, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Rick's Picks, L.L.C. (Respondent), of Moore, Oklahoma. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, 003949RPY, as a distributor of list I chemicals, on the ground that its continued registration was inconsistent with the public interest. Show Cause Order at 1 (citing 21 U.S.C. 823(h)).

The Show Cause Order incorporated the allegations of a show cause order which was initiated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; the latter order proposed the denial of Respondent's application for a state registration to distribute pseudoephedrine products that are Schedule V drugs under State law, as well as the revocation of Respondent's state registration to distribute pseudoephedrine products which are not scheduled under state law. *Id.* at 2. Specifically, the state show cause order alleged that Respondent and its owner, Rick D. Fowler, ''have a history of selling very large amounts of pseudoephedrine under suspicious and questionable circumstances, and with great negligence and reckless disregard for whether this product would be used in the clandestine manufacture of methamphetamine,'' and that Respondent, and its owner, had engaged in this activity notwithstanding ''numerous warnings from . . . DEA officials that Respondent's sales were fueling illicit methamphetamine laboratories.'' *Id.*

Relatedly, the State show cause order alleged that from January 2002 through April 2004, Respondent sold more than $ 2.2 million of Max Brand (for a total of nearly 10.5 million tablets), a product in which pseudoephedrine is the single active ingredient and which is the ''preferred choice [of] methamphetamine cooks.'' *Id.* at 4–5. The state show cause order also alleged that Respondent had brokered the sale of approximately 400,000 pseudoephedrine tablets for D & E Pharmaceutical. *Id.* at 5. The DEA Show Cause Order then repeated ten different allegations made in the state show cause order which asserted specific instances in which Respondent had sold extraordinary quantities of pseudoephedrine to convenience stores, gas stations and other non-traditional retailers of this product, and that Respondent had failed to report any of these transactions to DEA. *Id.* at 6–8.

The State show cause order further alleged that pseudoephedrine distributed by Respondent had been found at twenty-two methamphetamine dumpsites. *Id.* at 8. Finally, the DEA Show Cause Order alleged that in November 2003, DEA had conducted an inspection of Respondent during which numerous recordkeeping violations were observed. *Id.* at 9.

Respondent requested a hearing on the allegations. The matter was assigned

[1] Under the Administrative Procedure Act, ''[a]gencies may take official notice of facts at any stage in a proceeding—even in the final decision.'' *Attorney General's Manual on the Administrative Procedure Act* 80 (1946) (Wm. W. Gaunt & Sons, Inc., reprint 1979). In accordance with the Act, Respondent may ''show to the contrary'' by filing a request for reconsideration which includes supporting documentation within fifteen days of receipt of this order.

[2] The expiration date of Respondent's DEA registration is March 31, 2008.

to Administrative Law Judge (ALJ) Mary Ellen Bittner, who conducted a hearing in Oklahoma City, Oklahoma, on January 10 and 11, 2006. At the hearing, the Government introduced both testimonial and documentary evidence; Respondent introduced only documentary evidence. Both parties submitted post-hearing briefs.

On August 9, 2006, the ALJ issued her decision. In that decision, the ALJ concluded that Respondent's continued registration would be inconsistent with the public interest and recommended that its registration be revoked. Neither party filed exceptions.

Having considered the record as a whole, I hereby issue this decision and final order. I adopt the ALJ's findings of fact and conclusions of law in their entirety. For the reasons set forth below, I hold that Respondent's continued registration would be inconsistent with the public interest and therefore revoke its registration and deny its pending application for renewal.

Findings

Respondent, an Oklahoma corporation, is a distributor of assorted merchandise to convenience stores, gas stations, and other small retailers in that State. Respondent's sole owner is Mr. Rickey Fowler. ALJ Dec. at 15.

Respondent currently holds DEA Certificate of Registration, 003949RPY, which authorizes it to distribute list I chemicals. Gov. Ex. 1. While Respondent's registration certificate states that its registration expired on April 30, 2005, the record indicates that Respondent filed a timely renewal application. Tr. 24. Therefore, Respondent's registration remains in effect until the conclusion of this proceeding. *See* 5 U.S.C. 558(c).

Methamphetamine and the Market for List I Chemicals

Pseudoephedrine is lawfully marketed under the federal Food, Drug and Cosmetic Act for over-the-counter use as a decongestant. Pseudoephedrine is, however, also regulated as a list I chemical under the Controlled Substances Act because it is easily extracted from non-prescription products and used in the illicit manufacture of methamphetamine, a Schedule II controlled substance. *See* 21 U.S.C. 802(34); 21 CFR 1308.12(d).

Methamphetamine ''is a powerful and addictive central nervous system stimulant.'' *T. Young Associates, Inc.,* 71 FR 60567 (2006). The illegal manufacture and abuse of methamphetamine pose a grave threat to this country. Methamphetamine abuse has destroyed numerous lives and families and ravaged communities. Moreover, because of the toxicity of the chemicals used in producing the drug, its illicit manufacture causes serious environmental harms. *Id.*

Methamphetamine abuse has been an especially serious problem in the State of Oklahoma. In 1999, law enforcement authorities seized 391 illicit laboratories/dumpsites in the State; in 2003 (the last full year before the State enacted laws restricting the distribution of pseudoephedrine), authorities seized 1091 illicit laboratories/dumpsites. *See* Gov. Exs. 7 & 11. Moreover, in 2004, there were still 659 seizures. *See* Gov. Ex. 12. According to a senior agent for the Oklahoma Bureau of Narcotics, Max Brand in tablet form, a product in which pseudoephedrine (60 mg.) is the single active ingredient, is the preferred product of the State's illicit methamphetamine cooks.[1] *See also* Tr. 46 & 180.

In the course of adjudicating numerous cases, DEA has acquired substantial expertise pertaining to the market for list I chemical products containing pseudoephedrine. Accordingly, pursuant to 5 U.S.C. 556(e), I take official notice of the following facts related to the market for pseudoephedrine.[2]

According to Jonathan Robbin, an expert in statistical analysis of demographic, economic, geographic and survey data, ''over 97% of all sales of non-prescription drug products occur in drug stores and pharmacies, supermarkets, large discount merchandisers and electronic shopping and mail order houses.'' *T. Young,* 71 FR at 60568. Moreover, ''sales of non-prescription drugs by convenience stores (including both those that sell and do not sell gasoline), account for only 2.2% of the overall sales of all convenience stores that handle the line and only 0.7% of the total sales of all convenience stores.'' *Id.*

Based on his study of U.S. Government Economic Census Data, information obtained from the National Association of Convenience Stores, and commercially available point of sale transaction data, Mr. Robbin has constructed a model of the traditional market for retail sales of pseudoephedrine. *See id.* According to Mr. Robbin, ''sales of pseudoephedrine account for only about 2.6% of the sales of health and beauty care products in convenience stores and only 0.05% of total in-store (non-gasoline) sales.'' *Id.*

Moreover, ''the normal expected retail sale of pseudoephedrine (Hcl) tablets in a convenience store may range between $ 0 and $ 40 per month, with an average of $ 20.60 per month.'' *Id.* According to Mr. Robbin, a monthly retail sale at a non-traditional retailer of ''$ 60 of pseudoephedrine would occur less than one in 1,000 times in random sampling.'' *Id.* Moreover, a monthly retail sale of ''$ 100 in pseudoephedrine would occur about once in a million times in random sampling.'' *Id.*

Findings Pertaining To Respondent

Respondent first became registered to distribute list I chemicals in January 1999. Prior to becoming registered, DEA Diversion Investigators (DIs) conducted a pre-registration investigation. During this visit, the DIs discussed with Mr. Fowler the recordkeeping requirements imposed by federal law and regulations. Tr. 32–33. The DIs also provided Mr. Fowler with DEA notices that discussed suspicious transactions and advised that certain list I chemical products including pseudoephedrine were being diverted into the illicit manufacture of methamphetamine. *Id.* at 34. One of the notices specifically stated that ''[t]he exemption from certain recordkeeping and reporting requirements for below threshold transactions . . . does not reduce the risk of criminal liability.'' Gov. Ex. 3. This notice also advised Mr. Fowler to ''[r]eport all suspicious orders to your nearest DEA office immediately.'' *Id.*

The DIs, however, also gave Mr. Fowler a handout listing required reports. See Resp. Ex. 18, Tr. 64. More specifically, this document stated that reports were required for ''[a]ny regulated transaction involving an extraordinary quantity of a Listed Chemical,'' ''[a]ny regulated transaction involving an uncommon method of payment or delivery,'' and ''[a]ny regulated transaction involving any other circumstances that the regulated person (supplier) believes may indicate that the List (sic) Chemical will be used in the illicit production of controlled substances.'' Resp. Ex. 18.

In September 2001, DEA DIs returned to Respondent for a scheduled

[1] In response to the methamphetamine problem, effective April 6, 2004, Oklahoma made pseudoephedrine in tablet form a Schedule V controlled substance. Pseudoephedrine in liquid, liquid-filled capsules, and gel caps is, however, exempt from the requirement provided it is not the only active ingredient in the product. *See* 63 Okl. St. Ann. section 2–212.

[2] Under the Administrative Procedure Act, ''[a]gencies may take official notice of facts at any stage in a proceeding-even in the final decision.'' *Attorney General's Manual on the Administrative Procedure Act* 80 (1946) (Wm. W. Gaunt & Sons, Inc., reprint 1979). In accordance with the Act, Respondent may request a reopening of the proceeding to contest the facts of which I am taking official notice by filing a request with supporting affidavits no later than fifteen days after service of this order.

inspection. Among other things, the DIs determined that Respondent was storing list I chemicals in a trailer at a boat storage and not at its registered location. *Id.* at 37. The DIs also found that Respondent was in violation of recordkeeping requirements because its receiving invoices did not include the date that products were received and its sales invoices did not indicate package size. *Id.* at 38. Respondent's owner was issued a letter admonishing him for the violations. Resp. Ex. 2. Subsequently, Mr. Fowler wrote to one of the DIs advising of changes Respondent would make in its recordkeeping; at that time, DEA took no further action. ALJ Dec. at 16.

On November 3, 2003, DEA DIs conducted another inspection of Respondent. The DIs determined that while Respondent was now properly storing its list I chemical products, it was still violating the recordkeeping requirements. See id. at 16–17. DEA issued Respondent an additional letter of admonition. Tr. 41. During this visit, DEA also obtained Respondent's receiving and sales invoices for the period from January 1, 2002, through November 1, 2003. *Id.* at 261; Resp. Ex. 25.[3]

In May 2004, law enforcement authorities obtained a warrant and executed a search of Respondent. Based on records obtained during the search, as well as the records obtained during the November 2003 inspection, DEA investigators compiled a spreadsheet of Respondent's purchases of pseudoephedrine. Gov. Ex. 21; Tr. 187. According to this document, between January 28, 2002, and March 6, 2004, Respondent had purchased 10,062,144 tablets of Max Brand pseudoephedrine at a wholesale price of $ 941,072.20. *Id.* Moreover, during the 2003 calendar year, Respondent purchased nearly six million tablets at a wholesale price of $ 564,884.20. *Id.* Furthermore, between January 5, 2004, and March 6, 2004 (shortly before the Oklahoma statute scheduling tablet-form pseudoephedrine became effective), Respondent purchased approximately 1.8 million tablets at a wholesale price of $ 173,004. *Id.*

DEA investigators also compiled a spreadsheet of Respondent's pseudoephedrine sales. *See* Gov. Ex. 23. This 102 page document lists Respondent's sales to each store by product size and date. The document shows that Respondent repeatedly made monthly sales of a $ 1,000 or more of pseudoephedrine products to the great majority of the stores.[4] *See generally id.*

For example, from January 2002 through April 6, 2004, Respondent sold $ 62,658.00 (and brokered the sale of $ 7,013) of pseudoephedrine to Bernhardt's, a convenience store in Pharoah, Oklahoma. Gov. Ex. 24, at 5. During the same period, Respondent sold $ 50,256 (and brokered the sale of $ 7,015) of pseudoephedrine to Dock's General Store in Council Hill, Oklahoma, and sold $ 44,640 (and brokered the sale of $ 7,015) of the chemical to Dock's General Store in Leonard, Oklahoma. *Id.* at 6–7. Both of these establishments were bait and tackle shops. Tr. 269–71. Respondent also sold $ 37,116 (and brokered the sale of $ 4,676) of the chemical to Kern's Korner Grocery in Henryetta, Oklahoma. Gov. Ex. 24, at 8. Furthermore, from January 2002 through December 2002, Respondent sold $ 11,880 of pseudoephedrine to the Funky Munky, a head shop located in McAlester, Oklahoma. *Id.* at 9; *see also* Tr. 273.

The record also establishes that between February 2002 and March 2004, Respondent sold $ 97,026 (and 468,144 tablets) of pseudoephedrine to five stores in Poteau, a small city in eastern Oklahoma. Of significance among these customers, Respondent sold $ 30,672 to Babe's Place and $ 37,590 to the Tote-A-Poke # 1. Gov. Ex. 24, at 3. It also sold $14,040 to Burkes Friendly Store; all of the sales to Burkes occurred between February 2002 and March 2003. Gov. Ex. 23, at 15–16.

The above per-store figures are based on Respondent's wholesale prices. Several of Respondent's exhibits indicate that the suggested retail price was typically twice the wholesale price. *See* Resp. Exh. 20, at 19; Resp. Ex. 19. Ultimately, even if Respondent's customers sold the products at far less than the suggested retail prices, their sales of these products so greatly exceeded the monthly expected sales range of $ 0 to $ 40, with an average of $ 20.60, that the probability that the products were being purchased to meet legitimate consumer demand for use as a decongestant is infinitesimal. Indeed, as DEA's expert has testified, a monthly retail sale of $ 100 in pseudoephedrine to meet legitimate demand would occur about once in a million times in random sampling. Here, where there are numerous stores to which Respondent sold repeatedly $ 1,000 or more per month at wholesale prices, the only plausible explanation is that the products were being diverted into the illicit manufacture of methamphetamine.[5] I thus find that substantially all of Respondent's products were being diverted.

The ALJ further credited the testimony of a DEA investigator that ''some of Respondent's customers engaged in practices that the DEA considers suspicious.'' ALJ at 18. More specifically, these practices included: (1) Ordering only single-entity pseudoephedrine rather than a variety of pseudoephedrine and other over-the-counter drug products, (2) selling single-entity products that are marketed in large quantities and not in blister packs, (3) selling products that have only been on the market for a few years and which receive little advertising, and (4) purchasing large quantities of pseudoephedrine throughout the year by establishments that traditionally do not sell large quantities of these products and do little or no marketing of them.[6] ALJ at 18, Tr. 349–51.

The ALJ further found that ''Respondent never sold more than the [1000 grams] threshold amount to any one customer in a calendar month.'' ALJ at 20. The ALJ also found that Respondent's owner twice ''reported a suspicious sale to'' DEA. *Id.* According to the record, on October 8, 2003, Mr. Fowler reported that while servicing a store the previous day, ''the store clerk made a comment that she needed products that Methamphetamine is made from.'' Resp. Ex. 6, at p. 2. Mr. Fowler further wrote that he had ''suspended sales of all pseudo ephedrine products to this store due to this comment,'' and that he would ''not service this store in the future with any cold medications containing pseudo ephedrine.'' *Id.* Approximately, a month

[3] On April 7, 2004, a DEA DI again returned to Respondent to discuss the then-recently enacted state legislation which scheduled pseudoephedrine in tablet form. During this visit, the DI conducted a closing inventory. ALJ Dec. at 17.

[4] One of the DIs testified that her review of Respondent's records showed that its sales of pseudoephedrine constituted eighty-five percent of its business. ALJ Dec. at 17. The Government also introduced evidence that Respondent brokered the sale of substantial amounts of ''Bolt'' brand pseudoephedrine directly from its manufacturer to various stores. Tr. 273–276; Gov. Ex. 24, at 5–8.

[5] During cross-examination, Respondent's counsel elicited testimony from a Government witness that a few of the stores it sold to were located on highways—thus suggesting that the sales at these stores were to meet legitimate consumer demand. Tr. 201–02. This testimony does not persuade me that Respondent's products were being sold to meet legitimate demand. The ALJ found that Respondent had more than 200 customers, *see* ALJ Dec. at 18; Respondent's line of cross-examination begs the question: What about the other 200 plus stores? Indeed, the ALJ found that ''some of Respondent's customers were convicted of criminal charges involving the diversion of pseudoephedrine.'' *Id.*

[6] Most of these indicia were published by DEA in February 1999. *See* Suspicious Orders Task Force, *Report to the U.S. Attorney General* Appendix A (1999). The indicia were re-published in the June 2002 Chemical Handler's Manual. *See* DEA, *Chemical Handler's Manual—A Guide to Chemical Control Regulations* 40–43 (June 2002).

later Mr. Fowler also reported that he had been contacted by a person who wanted to come to his premises to purchase products but Mr. Fowler advised him that his firm ''did not do business this way.'' *Id.* at 3. Mr. Fowler further stated that the address given by this person was non-existent and that he had determined that the business was not legitimate.[7] *Id.*

On November 14, 2005, the Cleveland County, Oklahoma, District Attorney filed a felony information charging Mr. Fowler with criminal racketeering under Oklahoma law. Gov. Ex. 42. More specifically, the information alleged that ''between January 2002 and April 2004,'' Fowler ''was willfully, knowingly and criminally associated with an enterprise,'' which consisted of himself, ''individually, and as the owner of Rick Picks,'' the affairs of which ''were to distribute pseudoephedrine, a precursor in the manufacturing of methamphetamine, with reckless disregard for how the product was going to be used in violation of 63 O.S. 2–333(A).'' *Id.* I further take official notice of the fact that on October 16, 2006, the State filed a second amended felony information charging Respondent with the ''unlawful distribution of pseudoephedrine with reckless disregard for how it was going to be used.'' Finally, I take official notice of the fact that on February 9, 2007, a jury found Mr. Fowler guilty of the crime charged in the second amended information. *See* Docket Sheet, *State* v. *Fowler*, No. CF–2005–1651, Cleveland County, Oklahoma, District Court.

Discussion

Section 304(a) of the Controlled Substances Act provides that a registration to distribute a list I chemical ''may be suspended or revoked * * * upon a finding that the registrant * * * has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). In making this determination, Congress directed that I consider the following factors:

(1) Maintenance by the [registrant] of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) compliance by the applicant with applicable Federal, State, and local law;

(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) such other factors as are relevant to and consistent with the public health and safety.

Id. section 823(h).

''These factors are considered in the disjunctive.'' *Joy's Ideas*, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether a registration should be revoked or an application for renewal of a registration should be denied. *See, e.g.*, *David M. Starr*, 71 FR 39367, 39368 (2006); *Energy Outlet*, 64 FR 14269 (1999). Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). In this case, I hold that factors one, two, four, and five overwhelmingly establish that Respondent's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(h). Accordingly, I further hold that Respondent's registration should be revoked and its pending application for renewal should be denied.

Factor One—Maintenance of Effective Controls Against Diversion

I concur with the ALJ's conclusion that the record does not establish that Respondent fails to provide adequate physical security for list I chemicals. However, '''[p]rior agency rulings have applied a more expansive view of factor one than mere physical security.''' *D & S Sales*, 71 FR 37607, 37610 (2006) (quoting *OTC Distribution Co.*, 68 FR 70538, 70542 (2003)). Relatedly, I have previously held that a registrant is ''required to exercise a high degree of care in monitoring its customers' purchases.'' *D & S Sales*, 71 FR at 37610.

Respondent argues that he maintains effective controls against diversion because he obtained proof of identity from his customers and only distributed to ''legitimate store[s],'' Resp. Statement of Supporting Reasons 9 [hereinafter Resp. Br.], he maintained adequate and retrievable records, *id.*, and he ''did not fail to report suspicious sales because he was only required to report suspicious regulated transactions,'' *i.e.*, transactions that exceeded the 1,000 grams threshold. *Id.* at 11 (citing 21 U.S.C. 830(b)(1) and 21 CFR 1310.05(a)(1)).

Respondent apparently believes that as long as he sold under threshold amounts he could distribute pseudoephedrine without taking any further steps to determine the ultimate disposition of his products. Respondent's understanding is mistaken. Congress's imposition of recordkeeping and reporting requirements for regulated transactions does not mean that one can engage in below-threshold transactions without any further obligation to determine whether the products are likely to be diverted. Indeed, DEA has found that products which have been distributed to non-traditional retailers in sub-threshold transactions are routinely diverted. Contrary to Respondent's view, the threshold provisions pertaining to regulated transactions do not create a safe harbor which allows a registrant to sell list I chemicals without any further duty to investigate how the products are being used.

Respondent further contends that ''[t]here was no evidence presented that [it] had actual knowledge [that] any customer was diverting pseudoephedrine for the manufacture of methamphetamine.'' *Id.* at 10. In short, Respondent raises the ostrich defense.

Congress, however, has rejected the ostrich defense in creating criminal liability under 21 U.S.C. 841(c)(2), and I have previously rejected this defense as incompatible with the purpose of proceedings under 21 U.S.C. 823 and 824, which are brought to protect the public interest. *See D & S Sales*, 71 FR at 37612; *T. Young Associates*, 71 FR at 60572. As *D & S Sales* explained: ''Burying one's head in the sand while his firm's products are being diverted may allow one to maximize profits. But it is manifestly inconsistent with public health and safety.'' 71 FR at 37612. More recently, I revoked a registration holding—albeit in the context of analyzing factors four and five—that a registrant's lack of ''any intent to divert or to sell to customers who were diverting to the illicit manufacture of methamphetamine is irrelevant.'' *T. Young*, 71 FR at 60572. *See also Joy's Ideas*, 70 FR at 33198 (revoking registration notwithstanding that distributor was ''an unknowing and unintentional contributor to [the] methamphetamine problem.'').

Respondent's owner also contends that he maintained adequate controls because he ''reported suspicious activities to the DEA in the past.'' Resp. Br. at 9. According to the record, Mr. Fowler reported an encounter he had during which a store clerk informed him ''that she needed products that Methamphetamine is made from.'' Resp. Ex. 6. at 2. Mr. Fowler then stated that he would stop servicing the store. *Id.*

A review of the compilation of Respondent's sales records indicates,

[7] While Respondent introduced several form letters to customers purporting to impose requirements for the sale of pseudoephedrine, Resp. Exs. 11–13, as the ALJ noted, ''Respondent did not call any witnesses at the hearing, and there is no evidence as to whether such letters were mailed to Respondent's customers.'' ALJ Dec. at 19.

however, that this store—the 66 Lake Stop in Arcadia, Oklahoma—was actually one of the smaller volume purchasers of its pseudoephedrine products. *See* Gov. Ex. 23, at 2. For example, on May 24, 2003, the store purchased $ 270 of products; on July 11, 2003, the store purchased $ 105: and on August 13, 2003, the store purchased $ 252. *Id.* The fact that this store ''needed more products that Methamphetamine is made from,'' begs the question of what Mr. Fowler thought was the likely disposition of the products he sold to the numerous customers that were repeatedly buying more than $ 1,000 a month of the chemical from his firm.

Relatedly, Mr. Fowler contends that ''the DEA did not warn him that he was making suspicious sales, [or] that he was making excessive sales'' before November 3, 2003. Resp. Br. at 10. *See also id.* at 2 (''Between September, 2001 and November 3, 2003, the DEA never formally warned Mr. Fowler that he was selling excessive amounts of pseudoephedrine.''). The suggestion that Respondent would have stopped its excessive sales if it had been warned is absurd. As the Government's compilation of Respondent's sales invoices establishes, Mr. Fowler continued to sell extraordinary quantities of pseudoephedrine to numerous stores for months following the November 3, 2003 warning. Indeed, it appears that the only reason that the sales eventually stopped was because Respondent's customers ceased purchasing the products in anticipation of the effective date of the new Oklahoma law which restricted the sale of tablet-form pseudoephedrine. *See generally* Gov. Ex. 23. In short, it is clear that DEA's warning did not register with Mr. Fowler. I thus conclude that Respondent lacks effective controls against diversion and that this factor is, by itself, sufficient to conclude that Respondent's continued registration would be inconsistent with the public interest.

Factors Two and Three—Respondent's Compliance With Applicable Laws and Record of Criminal Convictions

As noted by the ALJ, Respondent has previously been admonished for several violations of DEA regulations pertaining to security and recordkeeping requirements. Moreover, while Mr. Fowler has not been formally convicted of a crime (because a final judgment has yet to be entered in the state criminal case), a jury recently found him guilty of the state law offense of distributing pseudoephedrine ''with reckless disregard as to how the product will be used.'' 63 Okl. St. Ann. section 2–333(A). I also hold that Respondent's distributions of pseudoephedrine violated 21 U.S.C. 841(c)(2) (prohibiting the possession or distribution of ''a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance''). Accordingly, while Mr. Fowler has not been formally convicted of a crime, I conclude that Respondent's record of compliance with applicable federal and state laws further demonstrates that Respondent's continued registration would be inconsistent with the public interest.

Factors Four and Five—Respondent's Experience in the Distribution of Chemicals and Other Factors Relevant to and Consistent With Public Health and Safety

As explained above, Respondent's experience in the distribution of listed chemicals is characterized by the egregious and criminal misconduct of its owner, Mr. Fowler. But even if there was no such evidence, I would still conclude—consistent with DEA precedent—that Respondent's excessive sales to non-traditional retailers would support a finding under factor five that its continued registration would be inconsistent with the public interest.

While pseudoephedrine has a legitimate medical use as a decongestant, its diversion into the illicit manufacture of methamphetamine has had pernicious effects on families and communities throughout the nation. Cutting off the supply source of methamphetamine traffickers is thus of critical importance in protecting the public from the devastation wreaked by this drug.

DEA orders have established that convenience stores and gas-stations constitute the non-traditional retail market for legitimate consumers of products containing this chemical. *See, e.g., Tri-County Bait Distributors*, 71 FR 52160, 52161–62; *D & S Sales*, 71 FR at 37609; *Branex, Inc.*, 69 FR 8682, 8690–92 (2004). DEA has further found that there is a substantial risk of diversion of pseudoephedrine into the illicit manufacture of methamphetamine when these products are sold by non-traditional retailers. *See, e.g., Joy's Ideas*, 70 FR at 33199 (finding that the risk of diversion was ''real'' and ''substantial''); *Jay Enterprises*, 70 FR 24620, 24621 (2005) (noting ''heightened risk of diversion'' should application be granted). *See also TNT Distributors*, 70 FR 12729, 12730 (2005) (establishing that ''80 to 90 percent of ephedrine and pseudoephedrine being used [in Tennessee] to manufacture methamphetamine was being obtained from convenience stores''); *Joey Enterprises*, 70 FR 76866, 76867 (2005) (''[w]hile there are no specific prohibitions under the Controlled Substances Act regarding the sale of listed chemical products to [gas stations and convenience stores], DEA has nevertheless found that [these entities] constitute sources for the diversion of listed chemical products'').

The record here likewise establishes that there is a substantial nexus between the sale of non-traditional list I chemical products by non-traditional retailers and the diversion of these products into the illicit manufacture of methamphetamine. Here, testimony establishes that Max Brand pseudoephedrine was the preferred product of Oklahoma meth. cooks and that this product was found in about eighty percent of the illicit laboratories seized by law enforcement authorities. Tr. 180–82. The Government also established that Max Brand pseudo was not found in traditional retailers and that it was distributed to non-traditional retailers such as convenience stores and gas stations from which meth cooks obtained the product. *See id.* Furthermore, the Government also showed that ''the vast majority of pseudoephedrine diversion'' in Oklahoma occurs in the non-traditional retail market. *Id.* at 216.

To protect the public from the harms caused by methamphetamine abuse, DEA has repeatedly revoked the registrations of list I chemical distributors who supplied the non-traditional market for selling quantities of products that clearly exceeded legitimate demand and were likely diverted into the illicit manufacture of methamphetamine. *See T. Young Associates, Inc.*, 71 FR at 60572–73; *D & S Sales*, 71 FR at 37611–12; *Joy's Ideas*, 70 FR at 33198–99; *Branex, Inc.*, 69 FR at 8693–96. Here, the record clearly establishes that Respondent distributed pseudoephedrine products in quantities that grossly exceeded legitimate consumer demand for these products as a decongestant. As found above, the only plausible explanation for these extraordinary sales is that Respondent's products were being diverted into the illicit manufacture of methamphetamine. *See T. Young*, 71 FR at 60572, *D & S Sales*, 71 FR at 37611 (finding diversion occurred ''[g]iven the near impossibility that * * * sales were the result of legitimate demand''); *Joy's Ideas*, 70 FR at 33198 (finding diversion occurred in the absence of ''a plausible explanation in the record for this deviation from the expected norm'').

While in this case, there is substantial evidence that Mr. Fowler distributed pseudoephedrine with a reckless disregard for its eventual use, such proof is not essential to sustain the revocation of Respondent's registration. A proceeding under section 304 of the CSA is not a criminal prosecution. Rather, its purpose is to protect the public interest. *See Leo R. Miller*, 53 FR 21931, 21932 (1988).

'' 'In determining the public interest,' Congress granted the Attorney General broad discretion to consider any other factor that is 'relevant to and consistent with the public health and safety.'' ' *T. Young*, 71 FR at 60572 (quoting 21 U.S.C. 823(h)(5)). The statutory text of factor five does not require that the Government prove that a registrant or its key employees acted with any particular *mens rea*.[8] As I have previously explained, ''the diversion of list I chemicals into the illicit manufacture of methamphetamine poses the same threat to public health and safety whether a registrant sells the products knowing they will be diverted, sells them with a reckless disregard for the diversion, *see D & S Sales*, 71 FR at 37610–12, or sells them being totally unaware that the products were being diverted.'' *T. Young*, 71 FR at 60572 (citing *Joy's Ideas*, 70 FR at 33198) (revoking registration notwithstanding that distributor was ''an unknowing and unintentional contributor to [the] methamphetamine problem''). Accordingly, Respondent's excessive sales of pseudoephedrine also provide reason alone to conclude that its continued registration would be inconsistent with the public interest.

In sum, four of the five factors conclusively demonstrate that Respondent's continued registration is inconsistent with the public interest. Furthermore, in accordance with 21 CFR 1316.67, I find that Respondent's owner engaged in egregious misconduct and is responsible for the diversion of massive amounts of pseudoephedrine into the illicit manufacture of methamphetamine. There, I conclude that the public interest requires that Respondent's registration be revoked effective immediately.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(h) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I order that DEA Certificate of Registration, 003949RPY, issued to Rick's Picks, L.L.C., be, and it hereby is, revoked. I further order that the pending application of Rick's Picks, L.L.C., for renewal of its registration be, and it hereby is, denied. This order is effective immediately.

Dated: March 30, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–6759 Filed 4–10–07; 8:45 am]

BILLING CODE 4410–09–P

[8] To the extent *mens rea* is relevant, it is accounted for in factor three, which directs the consideration of a registrant's prior conviction record. *See* 21 U.S.C. 823(h)(3).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 07–030]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Walter Kit, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, NASA PRA Officer, NASA Headquarters, 300 E Street SW., JE000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is an online application form for the Exploration Systems Mission Directorate—Space Grant Consortia Faculty Project. NASA must select candidates via a competitive process, and in order to do so must collect personal information in an application. The voluntary respondents will be full-time professors that are employed at a university in the United States or Puerto Rico.

II. Method of Collection

This information collected on the application is needed to competitively select faculty to participate in the 10 week Fellowship.

III. Data

Title: Exploration Systems Mission Directorate—Space Grant Consortia Faculty Project.

OMB Number: 2700–XXXX.

Type of review: New Collection.

Affected Public: Individuals or households.

Number of Respondents: 156.

Responses Per Respondent: 0.5 hour.

Annual Responses: 156.

Annual Burden Hours: 80.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

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

Gary Cox,

Deputy Chief Information Officer (Acting).

[FR Doc. E7–6772 Filed 4–10–07; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 050–00315, 050–00316; License Nos. DPR–58 & DPR–74 EA–06–295]

In the Matter of Indiana Michigan Power Company D.C. Cook Nuclear Power Plant; Confirmatory Order Modifying License (Effective Immediately)

I

Indiana Michigan Power Company (I&M or Licensee) is the holder of Facility Operating License Nos. DPR–58 and DPR–74 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on October 25, 1974 and December 23, 1977, respectively. The licenses authorize the operation of the D.C. Cook nuclear power plant units 1 & 2 in

accordance with conditions specified therein. The facility is located on the Licensee's site near Bridgeman, Michigan.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on March 8, 2007, in Washington, DC.

II

By letter dated December 13, 2006, the NRC identified to the Licensee an apparent violation of 10 CFR 50.7, ''Employee Protection.'' The apparent violation was issued based on the United States Department of Labor (DOL) Administrative Review Board's (ARB's) September 29, 2006, Final Decision and Order (ARB Case No. 04–147) affirming a DOL Administrative Law Judge's (ALJ) findings of fact and conclusions. On June 29, 2004, the ALJ had issued a Proposed Decision and Order (ALJ Case No. 02–ERA–30), concluding that I&M had retaliated against an I&M former test engineer in violation of Section 211 of the Energy Reorganization Act of 1974, as amended (the ERA). I&M has denied that it violated the ERA and has appealed the ARB decision to the United States Court of Appeals for the Sixth Circuit. Although at this time there is no indication that the impact of the apparent violation is not isolated, the NRC is concerned that, in the absence of appropriate management actions, the ARB decision may ultimately have a broader impact on the D.C. Cook plant's safety-conscious work environment (SCWE).

In its December 13, 2006, letter to I&M, the NRC offered I&M the opportunity to provide a written response, attend a predecisional enforcement conference, or request ADR in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and I&M and, if possible, assist the NRC and I&M in reaching an agreement. I&M chose to participate in ADR with the NRC. On March 8, 2007, the NRC and I&M met in Washington, DC., in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution.

III

This Confirmatory Order is issued pursuant to the agreement reached during the March 8, 2007, mediation meeting. Specifically, I&M agreed to the following actions:

1. By no later than one-hundred eighty (180) calendar days after the issuance of this Confirmatory Order, I&M agrees to complete an assessment of the D.C. Cook plant's Nuclear Safety Culture including its SCWE.

2. Within sixty (60) calendar days after the completion of the assessment as referenced in paragraph 1 above, I&M shall make available to the NRC:

A. A description of the tools/methods used to conduct that assessment including the survey questions;

B. The results of the assessment and I&M's analysis of the results; and

C. The proposed actions, if any, I&M would plan to take to address the results of the assessment in order to ensure that a thriving SCWE exists at the D.C. Cook plant.

3. As expeditiously as possible but by no later than December 31, 2008, I&M agrees to complete the training of all D.C. Cook plant's non-supervisory employees and long-term contractors on the topic of SCWE.

4. By no later than sixty (60) calendar days after the issuance of this Confirmatory Order, a member of I&M management at a level at least equal to the D.C. Cook plant Site Vice President will communicate with D.C. Cook plant's workforce about the company's policy and his/her expectations of management regarding the maintenance and enhancement of a SCWE.

5. By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, I&M agrees to implement a periodic assessment of its compliance with its work hour limitations program and evaluate the results of the assessment for trends.

In exchange for I&M's actions set forth hereunder, the NRC agreed not to pursue any further enforcement action in connection with the NRC's December 13, 2006, letter to I&M and will not count this matter as previous enforcement for the purposes of assessing potential future enforcement action civil penalty assessments in accordance with Section VI.C of the NRC Enforcement Policy, NUREG–1600. This Confirmatory Order will, however, be considered by the NRC for any assessment of the D.C. Cook plant's performance under the NRC's Reactor Oversight Process, as appropriate. On March 30, 2007, I&M consented to the NRC issuing this Confirmatory Order. I&M further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing. The NRC has concluded that its concern can be resolved through issuance of this Confirmatory Order.

IV

Since the licensee has taken several actions and implemented a number of programs relating to communications, training and human relation initiatives addressing the D.C. Cook plant's safety culture and SCWE and has agreed to commit to the actions to address NRC's concern, as set forth in Section III above, the NRC has concluded that its concern can be resolved through issuance of this Confirmatory Order.

I find that the Licensee's actions described in Section III are acceptable and necessary and conclude that with those actions the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's actions be confirmed by this Confirmatory Order. Based on the above and the Licensee's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, It is hereby ordered, effective immediately, that license Nos. Dpr-58 And Dpr-74 Are Modified As Follows:

1. By no later than one-hundred eighty (180) calendar days after the issuance of this Confirmatory Order, I&M agrees to complete an assessment of the D.C. Cook plant's nuclear Safety Culture including its SCWE.

2. Within sixty (60) calendar days after the completion of the assessment as referenced in paragraph I above, I&M shall make available to the NRC:

A. A description of the tools/methods used to conduct that assessment including the survey questions;

B. The results of the assessment and I&M's analysis of the results; and

C. The proposed actions, if any, I&M would plan to take to address the results of the assessment in order to ensure that a thriving SCWE exists at the D.C. Cook plant.

3. As expeditiously as possible but by no later than December 31, 2008, I&M agrees to complete the training of all D.C. Cook plant's non-supervisory employees and long-term contractors on the topic of a SCWE.

4. By no later than sixty (60) calendar days after the issuance of this Confirmatory Order, a member of I&M management at a level at least equal to the D.C. Cook plant Site Vice President will communicate with D.C. Cook plant workforce about the company's policy and his/her expectations of management regarding the maintenance and enhancement of a SCWE.

5. By no later than ninety (90) calendar days after the issuance of this

Confirmatory Order, I&M agrees to implement a periodic assessment of its compliance with its work hour limitations program and evaluate the results of the assessment for trends.

6. In the event of the transfer of the operating license of D.C. Cook plant to another entity, the actions as required by this Confirmatory Order shall continue to apply to the D.C. Cook plant and accordingly survive any transfer of ownership or license.

7. The NRC understands that I&M has appealed the ARB decision to the United States Court of Appeals for the Sixth Circuit. The outcome of that appeal will not alter I&M's actions set forth herein or the provisions of this Confirmatory Order.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, *ATTN:* Chief, Rulemakings and Adjudications Staff, Washington, DC. 20555–0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC. 20555–0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352, and to the Licensee. Because of potential disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V shall be final 20 days from the date of this Confirmatory Order without further order or proceedings. If an extension of times for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 4th day of April, 2007.

For The Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E7–6843 Filed 4–10–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08778]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Molycorp, Inc.'s Facility in Washington, PA

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

FOR FURTHER INFORMATION CONTACT: James Webb, Project Manager, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone: (301) 415–6252; fax number: (301) 415–5398; e-mail: *jxw2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of a license amendment to Molycorp, Inc. (Molycorp or licensee) for Materials License No. SMB–1393, to authorize an alternate decommissioning schedule for its facility in Washington, Pennsylvania. NRC has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of this proposed action is to allow the licensee to decommission its facility in a phased approach which will take longer than the two year period identified in the approved decommissioning plan (DP). Following an extensive supplemental characterization study, Molycorp found that there is a large volume of contaminated material in the subsurface. Molycorp will excavate the contaminated soils and transport them off-site to an NRC approved facility. Molycorp's proposed alternate decommissioning schedule shows that all decommissioning activities will be completed by the end of 2008. Molycorp's request is contained in a letter to NRC dated October 11, 2006.

An earlier, and more extensive, EA was prepared for License Amendment No. 5, in support of the NRC staff evaluation of Molycorp's final DP. The NRC staff determined that all steps in the proposed decommissioning could be accomplished in compliance with the NRC public and occupational dose limits, effluent release limits, and residual radioactive material limits. In addition, the staff concluded that approval of the decommissioning of the Molycorp Washington, PA, facility in accordance with the commitments in NRC license SMB–1393 and the final DP would not result in a significant adverse impact on the environment. The proposed action does not change the impacts analyzed in detail in the EA prepared for License Amendment No. 5.

If the NRC approves the license amendment, the authorization will be documented in an amendment to NRC License No. SMB–1393. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report in addition to the EA.

III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of Molycorp's proposed alternate decommissioning schedule. The NRC staff has concluded that there will be no adverse environmental impacts associated with granting Molycorp an

alternate decommissioning schedule. The impacts associated with this proposed action do not differ significantly from the impacts evaluated in the EA for approval of the DP in License Amendment No. 5. On the basis of the EA, the NRC has concluded that the environmental impacts from the action are expected to be insignificant and has determined not to prepare an environmental impact statement for the action.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agency-wide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the documents related to this notice are: Molycorp's letter to NRC dated October 11, 2006, ML062970401; EA prepared for License Amendment No. 5, ML003735909; EA prepared for this action, ML070250014; Molycorp's final DP, ML010540178; **Federal Register** Notice for Amendment No. 8, ML050030165. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

Any questions should be referred to James Webb, Division of Waste Management and Environmental Protection, U.S. Nuclear Regulatory Commission, Washington DC 20555, Mailstop T–7E18, telephone (301) 415–6252, fax (301) 415–5397.

Dated at Rockville, Maryland, this 5th day of April, 2007.

For the U.S. Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–6835 Filed 4–10–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. PROJ0735]

Public Meeting To Discuss Nuclear Regulatory Commission Roles and Responsibilities for Department of Energy Waste Determination Activities at the Idaho National Laboratory; Notice of Public Meeting in Idaho Falls, ID

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

DATES: April 25, 2007.

FOR FURTHER INFORMATION CONTACT: Xiaosong Yin, Project Manager, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–7640; fax number: (301) 415–5397; e-mail: *XXY@nrc.gov.*

SUPPLEMENTARY INFORMATION:

1. Introduction

The Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA) authorizes the U.S. Department of Energy (DOE), in consultation with the Nuclear Regulatory Commission (NRC), to determine whether certain radioactive waste related to the reprocessing of spent nuclear fuel is not high-level waste, provided certain criteria are met. The NDAA also requires NRC to monitor DOE disposal actions to assess compliance with 10 CFR Part 61, Subpart C, performance objectives for low-level waste.

On September 7, 2005, DOE submitted a draft waste determination for residual waste incidental to reprocessing, including sodium bearing waste, stored in the Idaho Nuclear Technology and Engineering Center (INTEC) Tank Farm Facility (TFF) to demonstrate compliance with the NDAA criteria including demonstration of compliance with the performance objectives in 10 CFR Part 61, Subpart C. In its consultation role, the NRC staff reviewed the draft waste determination and concluded that the NDAA criteria could be met for residual waste stored in the INTEC TFF. NRC documented the results of its review in a technical evaluation report (TER) issued in October 2006. DOE issued a final waste determination in November 2006 taking into consideration the assumptions, conclusions, and recommendations documented in NRC's TER (ML062490142).

To better inform the public on the NRC's activities under the NDAA, NRC is holding this public meeting in Idaho Falls, Idaho to provide the public with a clear understanding of NRC's activities on the implementation of the NDAA and the review of DOE's waste determination for the INTEC TFF. The NRC staff will also provide an overview of its planned monitoring activities.

2. Meeting Time and Location

The NRC will hold this public meeting on April 25, 2007, at Red Lion Hotels, 475 River Parkway, Idaho Falls, Idaho.

3. Meeting Agenda

6:30 p.m.–7 p.m.: Meeting participants registration.

7 p.m.–7:10 p.m.: The NRC staff will make opening remarks regarding the conduct of today's sessions.

7:10 p.m.–7:30 p.m.: The NRC staff will provide an overview of NRC's implementation of the Ronald Reagan National Defense Authorization Act for FY 2005, Section 3116.

7:30 p.m.–7:45 p.m.: Open questions and answers from all participants.

7:45 p.m.–8 p.m.: The NRC staff will provide an overview on NRC's technical review of DOE's Draft Determination for the Tank Farm Facility at the Idaho National Laboratory.

8 p.m.–8:15 p.m.: The NRC staff will provide an overview of NRC planned monitoring activities for the Tank Farm Facility at the Idaho National Laboratory.

8:15 p.m.–9 p.m.: Open questions and answers from all participants.

9 p.m.: Adjourn.

Dated at Rockville, Maryland, this 5th day of April, 2007.

For the Nuclear Regulatory Commission.

Scott Flanders,

Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection. Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–6836 Filed 4–10–07; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data

collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

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

Title and purpose of information collection: Placement Service; OMB 3220–0057 Section 12(i) of the Railroad Unemployment Insurance Act (RUIA), authorizes the Railroad Retirement Board (RRB) to establish maintain, and operate free employment offices to provide claimants for unemployment benefits with job placement opportunities. Section 704(d) of the Regional Railroad Reorganization Act of 1973, as amended, and as extended by the consolidated Omnibus Budget Reconciliation Act of 1985, required the RRB to maintain and distribute a list of railroad job vacancies, by class and craft, based on information furnished by rail carriers to the RRB. Although the requirement under the law expired effective August 13, 1987, the RRB has continued to obtain this information in keeping with its employment service responsibilities under Section 12(k) of the RUIA. Application procedures for the job placement program are prescribed in 20 CFR 325. The procedures pertaining to the RRB's obtaining and distributing job vacancy reports furnished by rail carriers are described in 20 CFR 346.1.

The RRB currently utilizes four forms to obtain information needed to carry out its job placement responsibilities. Form ES–2, Supplemental Information for Central Register, is used by the RRB to obtain information needed to update a computerized central register of separated and furloughed railroad employees available for employment in the railroad industry. Form ES–21, Referral to State Employment Service, and ES–21c, Report of State Employment Service Office, are used by the RRB to provide placement assistance for unemployed railroad employees through arrangements with State Employment Service offices. Form UI–35, Field Office Record of Claimant Interview, is used primarily by RRB field office staff to conduct in-person interviews of claimants for unemployment benefits. Completion of these forms is required to obtain or maintain a benefit. In addition, the RRB also collects Railroad Job Vacancies information received voluntarily from railroad employers.

The RRB proposes minor, non-burden impacting editorial changes to Form ES–2, minor non-burden impacting editorial and reformatting changes to Form ES–21, and a minor non-burden impacting change to Form UI–35. No changes are being proposed to Form ES–21c or to the Railroad Job Vacancies Report.

The estimated annual respondent burden for this collection is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form Nos.	Annual responses	Completion time (min)	Burden (hrs)
ES–2	7,500	0.25	31
ES–21	3,500	0.68	40
ES–21c	1,250	1.50	31
UI–35 (in person)	9,000	7.00	1,050
UI–35 (by mail)	1,000	10.50	175
Railroad Job Vacancies Report	750	10.00	125
Total	23,000	.....	1,452

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–6785 Filed 4–10–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27779; File No. 812–13342]

Jefferson National Life Insurance Company, et al.

April 6, 2007

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of application for an order of approval pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''Act'') approving certain substitutions of securities and an order of exemption pursuant to Section 17(b) of the Act from Section 17(a) of the Act.

APPLICANTS: Jefferson National Life Insurance Company (''JNL''), Jefferson National Life Annuity Account C (''Separate Account C''), Jefferson National Life Annuity Account E (''Separate Account E''), Jefferson National Life Annuity Account F (''Separate Account F''), Jefferson National Life Annuity Account G (''Separate Account G''), Jefferson National Life Annuity Account H (''Separate Account H''), Jefferson National Life Annuity Account I (''Separate Account I''), Jefferson National Life Annuity Account J (''Separate Account J''), Jefferson National Life Annuity Account K (''Separate Account K''), Conseco Variable Insurance—Separate Account L (''Separate Account L'', and together with Separate Account C, Separate Account E, Separate Account F, Separate Account G, Separate Account H, Separate Account I, Separate Account J, and Separate Account K, the ''Separate Accounts'' and, collectively with JNL, the ''Applicants''), Northern Lights Variable Trust (''NLVT'' and collectively with Applicants, the ''Section 17 Applicants'').

SUMMARY OF APPLICATION: Applicants seek an order approving the proposed substitution of shares of the 40|86 Series Trust Equity Portfolio and 40|86 Series Trust Balanced Portfolio (the ''Replaced Funds'') with shares of the JNF Equity Portfolio and JNF Balanced Portfolio (the ''Replacement Funds''), (the ''Substitutions''). Section 17 Applicants seek an order exempting them from the provisions of Section 17(a) of the Act to the extent necessary to permit JNL to carry out each of the Substitutions (''Application'').

FILING DATE: The application was originally filed on November 9, 2006, and was amended and restated on January 17, 2007, and April 2, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 27, 2007, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, 9920 Corporate Campus Drive, Suite 1000, Louisville, Kentucky 40223.

FOR FURTHER INFORMATION CONTACT: Patrick Scott, Senior Counsel, Office of Insurance Products, Division of Investment Management, at (202) 551–6763, or Harry Eisenstein, Branch Chief, at (202) 661–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Washington, D.C. 20549 (202–942–8090).

Applicants' and Section 17 Applicants' Representations

1. JNL is a stock life insurance company originally organized in 1937 under the laws of Texas. JNL was formerly a subsidiary of Conseco Variable Insurance Company. JNL is currently an affiliate of Inviva, Inc., which purchased JNL in 2002.

2. Separate Account C was established in 1980. Separate Account C is registered under the Act as a unit investment trust (File No. 811–04819) and is used to fund variable annuity contracts issued by JNL. Two variable annuity contracts funded by Separate Account C are affected by the Substitutions.

Separate Account E was established in 1993. Separate Account E is registered under the Act as a unit investment trust (File No. 811–08288) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account E is affected by the Substitutions.

Separate Account F was established in 1997. Separate Account F is registered under the Act as a unit investment trust (File No. 811–08483) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account F is affected by the Substitutions.

Separate Account G was established in 1996. Separate Account G is registered under the Act as a unit investment trust (File No. 811–07501) and is used to fund variable annuity contracts issued by JNL. Three variable annuity contracts funded by Separate Account G are affected by the Substitutions.

Separate Account H was established in 1999. Separate Account H is registered under the Act as a unit investment trust (File No. 811–09693) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account H is affected by the Substitutions.

Separate Account I was established in 2000. Separate Account I is registered under the Act as a unit investment trust (File No. 811–10213) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account I is affected by the Substitutions.

Separate Account J was established in 2003. Separate Account J is registered under the Act as a unit investment trust (File No. 811–21498) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account J is affected by the Substitutions.

Separate Account K was established in 2003. Separate Account K is registered under the Act as a unit investment trust (File No. 811–21500) and is used to fund variable annuity contracts issued by JNL. One variable annuity contract funded by Separate Account K is affected by the Substitutions.

Separate Account L was established in 2000. Separate Account L is registered under the Act as a unit investment trust (File No. 811–10271) and is used to fund variable universal life contracts issued by JNL. One variable universal life contract funded by Separate Account L is affected by the Substitutions (all eleven variable annuity contracts and the one variable universal life contract affected by the Substitutions are collectively referred to as the ''Contracts'').

3. NLVT was organized in Delaware as a statutory trust on November 2, 2005 and is registered under the Act as an open-end management investment company.

4. 40/86 Advisors, Inc. (''Advisors'') is the investment adviser to the Replaced Funds, and is a subsidiary of Conseco Inc., JNL's former parent. The two Replaced Funds are portfolios of the 40/86 Series Trust, formerly known as the Conseco Series Trust (''CST''). JNF Advisors, Inc. (''JNF Advisor'') is a newly formed investment adviser under common control with JNL. JNF Advisor will serve as investment adviser to the Replacement Funds, which will be portfolios of NLVT. Chicago Equity Partners (''CEP'') is a registered investment adviser and is currently 40/86 Series Trust Equity Portfolio's sub-adviser. CEP is also currently the 40/86 Series Trust Balanced Portfolio's sub-adviser for the equity portion of the fund. After the Substitutions, CEP will be sub-adviser for both Replacement Funds, including the fixed income portion of the JNF Balanced Portfolio. There are no corporate affiliations between any of these three investment advisers.

5. Purchase payments under the Contracts may be allocated to one or more sub-accounts of the Separate Accounts (the ''Sub-Accounts''). Income, gains and losses, whether or not realized, from assets allocated to the Separate Accounts are, as provided in the Contracts, credited to or charged against the Separate Accounts without regard to other income, gains or losses of JNL. The assets maintained in the Separate Accounts will not be charged with any liabilities arising out of any other business conducted by JNL. Nevertheless, all obligations arising under the Contracts, including the commitment to make annuity payments or death benefit payments, are general corporate obligations of JNL. Accordingly, all of the assets of JNL are available to meet its obligations under the Contracts.

6. The Contracts permit allocations of account value to available Sub-Accounts that invest in specific investment portfolios of underlying registered investment companies (each a ''Fund'' and, collectively, the ''Mutual Funds''). The Mutual Funds are registered under the Act as open-end management investment companies.

7. The Contracts permit transfers of accumulation value from one Sub-Account to another Sub-Account at any time subject to certain restrictions. No sales charge applies to such a transfer of accumulation value among Sub-Accounts.

8. The Contracts reserve the right, upon notice to contract owners (the ''Contract Owners''), to substitute shares of another mutual fund for shares of a Fund held by a Sub-Account.

9. Account C was established in 1980 as a management investment company. Effective May 1, 1993, Account C was restructured into a unit investment trust, pursuant to Commission exemptive relief. As a condition of this exemptive relief, certain Contract Owners' contracts were endorsed to limit the advisory fees the Contract Owner paid on investments in the 40/86 Series Trust Equity Portfolio. Investments by those Contract Owners in the corresponding Replacement Fund will continue to benefit from the advisory fee limitations which were a condition of the prior exemptive relief.

10. The Replaced Funds involved in the Substitutions include 2 separate 4086 Series Trust portfolios. After the Substitutions, the investment objective and policies of each Replacement Fund will be the same as or substantially similar to the investment objective and policies of the corresponding Replaced Fund. The Substitutions are being proposed for several reasons. First, the accumulated assets in the Replaced Funds were derived from an earlier time, prior to 2002, when Conseco Inc., JNL's former parent, formed a large commissioned broker-dealer network that was familiar with, and loyal to, the CST funds. That broker-dealer network dissolved after Conseco experienced financial difficulties in the summer of 2002. Today JNL, as an affiliate of Inviva, Inc. (which purchased JNL (f/k/a Conseco Variable Insurance Company)), has almost no access to the broker-dealer network that was responsible for the growth in assets in the CST funds. In addition, JNL has developed its own, very different target audience: the fee-based and fee-only adviser, as opposed to the traditional commission-based representative. Second, as part of the discussions related to the Substitutions of the Replaced Funds, Advisors has indicated to JNL that sponsoring an insurance-dedicated mutual fund complex did not have a place in its parent corporation's long-term business plan. Advisors intends to continue to serve in its current capacity with respect to the Replaced Funds to facilitate a smooth transition. The Board of Trustees of 40/86 Series Trust voted to liquidate, on or about March 23, 2007, the Trust's three other portfolios, the Fixed Income, Government Securities and Money Market Portfolios, and these portfolios have been liquidated.

Currently all of the Mutual Funds are unaffiliated investment companies and changes due to investment performance, style drift, or management practice issues require substantial systems, filing, and printing resources, which slows the process to make changes, if necessary. Because it is anticipated the Replacement Funds and JNF Advisors will have ''manager of managers'' exemptive relief, JNF Advisor, as investment adviser, will be able to act more quickly and efficiently to protect Contract Owners' interests if the investment strategy, management team or performance of a sub-adviser does not meet expectations. JNF Advisor plans to file an application for ''manager of managers'' exemptive relief within 6 months from the date that the Substitutions are effected. The ''manager of managers'' exemptive relief would permit JNF Advisor, as the investment adviser for the existing series, to replace any sub-adviser or to employ a new sub-adviser without submitting such actions for the approval of shareholders of the affected series. Before a Replacement Fund relies on any Commission order or rule that would permit the Replacement Fund to enter into contracts with subadvisers without obtaining shareholder approval, the Replacement Fund's reliance on the order or rule will be approved, following the Substitutions, by a majority of the Replacement Fund's outstanding voting securities.

11. JNF Advisor will serve as the investment adviser for each Replacement Fund. However, the management of each Replacement Fund will be sub-advised as described below. Additional information, including the investment objective, fee structure and expenses for the fiscal year ending in 2006 for each of the Replaced and each Replacement Fund, is shown in the tables that follow:

12. Substitution 1

	Replaced fund	Replacement fund
Fund Name	40/86 Series Trust Equity Portfolio	JNF Equity; subadvised by CEP
Investment Objective	Seeks to provide a high total return consistent with preservation of capital and a prudent level of risk. Normally invests at least 80% of its assets in U.S. common stocks. May also invest in other U.S. and foreign securities, including convertible securities and warrants. Is normally widely diversified by industry and company, with a focus on small and medium-size companies. Uses a proprietary multi-factor model to select securities. The model includes momentum, value and quality factors. The process focuses on security selection while remaining industry, sector, style and capitalization neutral.	Seeks to provide a high total return consistent with preservation of capital and a prudent level of risk. Normally invests at least 80% of its assets in U.S. common stocks. May also invest in other U.S. and foreign securities, including convertible securities and warrants. Is normally widely diversified by industry and company, with a focus on small and medium-size companies. Uses a proprietary multi-factor model to select securities. The model includes momentum, value and quality factors. The process focuses on security selection while remaining industry, sector, style and capitalization neutral.
Principal Risks	• Market Risk • Small-Company Risk • Price Volatility	• Market Risk. • Small-Company Risk. • Price Volatility.
Adviser/Subadviser	40/86 Advisors Partners/CEP	JNF Advisor/CEP.
Fund Asset Level as of 9/30/06.	$169,387,929	$0
Mgmt. Fee	0.79%*	0.79%*
12b–1 Fee	0.25%	0.25%
Other Expenses	0.12%	0.20%

	Replaced fund	Replacement fund
Total Annual Operating Expns..	1.16%	1.24%
Fee Reduction	−0.06%	−0.14%
Net Total Annual Expenses.	1.10%	1.10%

*The advisory fee schedule does not contain breakpoints.

The Applicants believe that the Replacement Fund is an appropriate substitute for the Replaced Fund because the investment objective and policies of the Replacement Fund are nearly identical to those of the Replaced Fund. Additionally, the Replacement Fund will be managed by the same sub-adviser as the Replaced Fund, and will continue using the same style and strategy as is used in managing the Replaced Fund.

13. Substitution 2

	Replaced fund	Replacement fund
Fund Name	40/86 Series Trust Balanced Portfolio	JNF Balanced; subadvised by CEP.
Investment Objective	Seeks a high total investment return consistent with the preservation of capital and prudent investment risk. Normally, invests approximately 50–65% of assets in equities, and the remainder in a combination of fixed income securities, or cash equivalents. The equity portion of the Portfolio is invested primarily in U.S. common stocks but may also invest in other U.S. and foreign securities, including convertible securities and warrants. Normally, the equity portion will be widely diversified by industry and company. It will focus on large and medium-size companies. The fixed income portion of the Portfolio will normally maintain at least 25% of the value of the Portfolio's assets in a wide range of domestic and foreign fixed-income securities, including non-U.S. dollar denominated securities. The majority of foreign investments will be in Yankee Bonds. These fixed-income securities will have primarily intermediate and/or long-term maturities. The Portfolio may also invest in below investment grade fixed-income securities that are not believed to involve undue risk to income or principal. The lowest rating categories in which the Portfolio will invest are rated Caa/CCC by Moody's/S&P.	Seeks a high total investment return consistent with the preservation of capital and prudent investment risk. Normally, invests approximately 50–65% of assets in equities, and the remainder in a combination of fixed income securities, or cash equivalents. The equity portion of the Portfolio is invested primarily in U.S. common stocks but may also invest in other U.S. and foreign securities, including convertible securities and warrants. Normally, the equity portion will be widely diversified by industry and company. It will focus on large and medium-size companies. The fixed income portion of the portfolio will normally maintain at least 25% of the value of the Portfolio's assets in a wide range of domestic and foreign fixed-income securities, including non-U.S. dollar denominated securities. The majority of foreign investments will be in Yankee Bonds. These fixed-income securities will have primarily intermediate and/or long-term maturities. The Portfolio may also invest in below investment grade fixed-income securities that are not believed to involve undue risk to income or principal. The lowest rating categories in which the Portfolio will invest are rated Caa/CCC by Moody's/S&P.
Principal Risks	• Market Risk • Midsize Company Risk • Price Volatility • Principal Loss • Credit Risk • Interest Rate Risk • Foreign Risk • Leverage Risk	• Market Risk. • Midsize Company Risk. • Price Volatility. • Principal Loss. • Credit Risk. • Interest Rate Risk. • Foreign Risk. • Leverage Risk.
Adviser/Subadviser	40/86/CEP—Equity 40/86 Advisors—Fixed Income	JNF Advisor/CEP.
Fund Asset Level as of 9/30/06.	$42,161,064	$0
Mgmt. Fee	0.79%*	0.79%*
12b–1 Fee	0.25%	0.25%
Other Expenses	0.16%	0.23%
Total Annual Operating Expenses.	1.20%	1.27%
Fee Reduction	−0.10%	−0.17%
Net Total Annual Expenses.	1.10%	1.10%

*The advisory fee schedule does not contain breakpoints.

The Applicants believe that the Replacement Fund is an appropriate substitute for the Replaced Fund because the investment objective and policies of the Replacement Fund are substantially similar to those of the Replaced Fund. Additionally, the Replacement Fund will be managed by the same sub-adviser as the Replaced

Fund, and will continue using the same style and strategy as is used in managing the Replaced Fund.

14. The Substitutions will take place at the Funds' relative net asset values determined on the date of the Substitutions in accordance with Section 22 of the Act and Rule 22c–1 thereunder with no change in the amount of any Contract Owner's account value or death benefit or in the dollar value of his or her investment in any of the Sub-Accounts. Accordingly, there will be no financial impact on any Contract Owner. The Substitutions will generally be effected by having each of the Sub-Accounts that invests in the Replaced Funds redeem its shares at the net asset value calculated on the date of the Substitutions and purchase shares of the respective Replacement Funds at the net asset value calculated on the same date.

15. In the alternative, should a Replaced Fund determine that a cash redemption would adversely affect its shareholders, it may redeem the interest ''in-kind.'' In that case, the Substitutions will be effected by the Sub-Account contributing all the securities it receives from the Replaced Fund for an amount of Replacement Fund shares equal to the fair market value of the securities contributed. All in-kind redemptions from a Replaced Fund of which any of the Applicants is an affiliated person will be effected in accordance with the conditions set forth in the Commission's no-action letter issued to *Signature Financial Group, Inc.* (available December 28, 1999).

16. The Substitutions will be described in a supplement to the prospectuses for the Contracts (''Supplements'') filed with the Commission and mailed to Contract Owners. The Supplements will provide Contract Owners with notice of the Substitutions and describe the reasons for engaging in the Substitutions. The Supplements also will inform Contract Owners with assets allocated to a Sub-Account investing in the Replaced Funds that the Replaced Funds will not be an available investment option after the date of the Substitutions and that Contract Owners will have the opportunity to reallocate account value once:

- Prior to the Substitutions, from the Sub-Accounts investing in the Replaced Funds, and
- For 30 days after the Substitutions, from the Sub-Accounts investing in the Replacement Funds to Sub-Accounts investing in other Funds available under the respective Contracts, without diminishing the number of free transfers that may be made in a given contract year and without the imposition of any transfer charge or limitation, other than any applicable limitations in place to deter potentially harmful excessive trading. To the extent a Contract Owner has account value allocated to both Sub-Accounts investing in a Replaced Fund, the Contract Owner will be permitted one reallocation from each Sub-Account. If a Contract Owner reallocates from both Sub-Accounts on the same day, they will have exhausted the number of permitted reallocations.

17. The prospectuses for the Contracts will contain the substance of the information contained in the Supplements concerning the Substitutions. Each Contract Owner will be provided with a prospectus for the Replacement Funds before the Substitutions, except that with respect to Replacement Funds that become effective contemporaneously with the Substitutions, a prospectus will be sent to affected Contract Owners with the written confirmation. Within five days after the Substitutions, JNL will send affected Contract Owners written confirmation that the Substitutions have occurred and notice that Contract Owners will have the opportunity to reallocate account value, for 30 days after the Substitutions, from the Sub-Accounts investing in the Replacement Funds to Sub-Accounts investing in other Funds available under the respective Contracts, without diminishing the number of free transfers that may be made in a given contract year and without the imposition of any transfer charge or limitation, other than any applicable limitations in place to deter potentially harmful excessive trading.

18. JNL will pay all direct and indirect expenses and transaction costs of the Substitutions, including all legal, accounting and brokerage expenses relating to the Substitutions. No costs will be borne by Contract Owners. Affected Contract Owners will not incur any fees or charges as a result of the Substitutions, nor will their rights or the obligations of the Applicants under the Contracts be altered in any way. The Substitutions will not cause the fees and charges under the Contracts currently being paid by Contract Owners to be greater after the Substitutions than before the Substitutions. The Substitutions will have no adverse tax consequences to Contract Owners and will in no way alter the tax benefits to Contract Owners.

19. Applicants believe that their request satisfies the standards for relief pursuant to Section 26(c) of the Act, as set forth below, because the affected Contract Owners will have:

(1) Account values allocated to a Sub-Account invested in a Replacement Fund with an investment objective and policies substantially similar to the investment objective and policies of the Replaced Fund; and

(2) Replacement Funds whose current total annual expenses will be no higher than those of the Replaced Funds for their 2006 fiscal year, because as described below, JNL has agreed to, for a period of 24 months following the Substitutions, limit the total net expenses of a Replacement Fund to those of the Replaced Fund for the 2006 fiscal year. At the end of the 24-month period it is possible that the expenses of the Replacement Funds may be higher.

Applicants' and Section 17 Applicants' Legal Analysis

1. Section 26(c) of the Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve such a substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The purpose of Section 26(c) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions that might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a Contract Owner forced to redeem may suffer adverse tax consequences. Section 26(c) affords this protection to investors by preventing a depositor or trustee of a unit investment trust that holds shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

3. Applicants assert that the purposes, terms and conditions of the Substitutions are consistent with the principles and purposes of Section 26(c) and do not entail any of the abuses that Section 26(c) is designed to prevent. Applicants have reserved the right to make such a substitution under the Contracts and this reserved right is disclosed in the prospectus for the Contracts.

4. In both Substitutions, Applicants maintain, the investment objectives and policies of the Replacement Funds are sufficiently similar to those of the corresponding Replaced Funds that Contract Owners will have reasonable continuity in investment expectations. Accordingly, the Replacement Funds are appropriate investment vehicles for those Contract Owners who have account values allocated to the Replaced Funds.

5. Applicants state that, for the 24-month period following the date of the Substitutions, JNL agrees to limit the total operating expenses of a Replacement Fund (taking into account any expense waiver or reimbursement) on an annualized basis to the net expense level of the corresponding Replaced Fund for the 2006 fiscal year. In addition, for 24 months following the Substitutions, JNL will not increase asset-based fees or charges for Contracts outstanding on the day of the Substitutions. JNL represents that the Substitutions and the selection of the Replacement Funds were not motivated by any financial consideration paid or to be paid by the Replacement Funds, their advisers or underwriters, or their respective affiliates.

6. Applicants submit that, the Substitutions will not result in the type of costly forced redemption that Section 26(c) was intended to guard against and, for the following reasons, is consistent with the protection of investors and the purposes fairly intended by the Act:

(1) Each of the Replacement Funds is an appropriate fund to which to move Contract Owners with account values allocated to the Replaced Funds because the new funds have substantially similar investment objectives and policies.

(2) The costs of the Substitutions, including any brokerage costs, will be borne by JNL and will not be borne by Contract Owners. No charges will be assessed to effect the Substitutions.

(3) The Substitutions will be at the net asset values of the respective shares without the imposition of any transfer or similar charge and with no change in the amount of any Contract Owner's account value.

(4) The Substitutions will not cause the fees and charges under the Contracts currently being paid by Contract Owners to be greater after the Substitutions than before the Substitutions and will result in Contract Owners' account values being moved to a Fund with the same or lower current total annual expenses.

(5) All Contract Owners will be given notice of the Substitutions prior to the Substitutions and will have an opportunity before, and for 30 days after, the Substitutions to reallocate account value among other available Sub-Accounts without diminishing the number of free transfers that may be made in a given contract year and without the imposition of any transfer charge or limitation, other than any applicable limitations in place to deter potentially harmful excessive trading or disintermediation involving the fixed accounts available with the variable annuity contracts.

(6) Within five days after a Substitution, JNL will send to its affected Contract Owners written confirmation that a Substitution has occurred.

(7) The Substitutions will in no way alter the insurance benefits to Contract Owners or the contractual obligations of JNL.

(8) The Substitutions will have no adverse tax consequences to Contract Owners and will in no way alter the tax benefits to Contract Owners.

(9) Before a Replacement Fund relies on any Commission order or rule that would permit the Replacement Fund to enter into contracts with sub-advisers without obtaining shareholder approval, the Replacement Fund's reliance on the order or rule will be approved, following the Substitutions, by a majority of the Replacement Fund's outstanding voting securities.

7. The Section 17 Applicants request an order under Section 17(b) exempting them from the provisions of Section 17(a) to the extent necessary to permit JNL to carry out each of the proposed Substitutions. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principal, from knowingly purchasing any security or other property from the registered company.

8. Applicants state that, JNL, as depositor of the Separate Accounts, is an affiliate of the Separate Accounts and also JNF Advisor, which serves as investment adviser for the affected NLVT series. As such, JNF Advisor could be deemed to control the affected NLVT series and be an affiliate of the affected NLVT series. Assuming, for this or other reasons, that an affected NLVT series is an affiliate of an affiliate of JNL, to the extent the Separate Accounts each use assets received in-kind to purchase Replacement Fund Shares, the Substitutions would involve one or more purchases or sales of securities or property between persons who are affiliates of affiliates. Accordingly, the Section 17 Applicants are seeking relief, to the extent necessary, from Section 17(a) for the in-kind purchases and sales of Replacement Fund Shares.

9. Section 17(b) of the Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the evidence establishes that:

(1) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and records filed under the Act; and

(3) the proposed transaction is consistent with the general purposes of the Act.

10. The Section 17 Applicants submit that, for all the reasons set forth in paragraphs 3–9 above, the terms of the proposed in-kind purchases of shares of the Replacement Funds by the Separate Accounts, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants also submit that the proposed in-kind purchases by the Separate Accounts are consistent with the policies of JNL and the affected NLVT series. Finally, the Section 17 Applicants submit that the proposed substitutions are consistent with the general purposes of the Act.

11. To the extent the Separate Account's in-kind purchases of Replacement Fund shares are deemed to involve principal transactions between entities which are affiliates of affiliates, the procedures described below, Applicants and Section 17 Applicants contend, should be sufficient to assure that the terms of the proposed transactions are reasonable and fair to all participants. The Section 17 Applicants maintain that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each Fund involved, are reasonable, fair and do not involve overreaching. In addition, although not applicable, the in-kind transactions will conform with all except one of the conditions enumerated in Rule 17a–7. The proposed transactions will take place at relative net asset value in conformity with the requirements of Section 22(c) of the Act and Rule 22c–1 thereunder

with no change in the amount of any Contract Owner's account value or death benefit or in the dollar value of his or her investment in any Sub-Account. Contract Owners will not suffer any adverse tax consequences as a result of the substitutions. The fees and charges under the Contracts will not increase because of the substitutions. Even though they may not rely on Rule 17a–7, the Section 17 Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching.

12. The Section 17 Applicants state that they will carry out the proposed in-kind purchases in conformity with all of the conditions of Rule 17a–7 and each Fund's procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. Nevertheless, they contend, the circumstances surrounding the proposed Substitutions will be such as to offer the same degree of protection to each Replacement Fund from overreaching that Rule 17a–7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, JNL (or any of its affiliates) cannot effect the proposed transactions at a price that is disadvantageous to any of the Replacement Funds. Although the transactions may not be entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in its registration statement and as required by Rule 22c–1 under the Act. No brokerage commission, fee (except for customary transfer fees), or other remuneration will be paid to any party in connection with the proposed in-kind transactions.

13. Applicants state that the sale of shares of Replacement Funds for investment securities, as contemplated by the proposed in-kind transactions, is consistent with the investment policy and restrictions of the Replacement Funds because (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Replacement Funds would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, each Replacement Funds' sub-adviser will examine the portfolio securities being offered to each Replacement Fund and accept only those securities as consideration for shares that it would have acquired for each such fund in a cash transaction.

14. The proposed in-kind transactions, Applicants state, are consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in Section 1 of the Act. The proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent. In particular, Sections 1(b)(2) and (3) of the Act state, among other things, that the national public interest and the interest of investors are adversely affected ''when investment companies are organized, operated, managed, or their portfolio securities are selected in the interest of directors, officers, investment advisers, depositors, or other affiliated persons thereof, or in the interests of other investment companies or persons engaged in other lines of business, rather than in the interest of all classes of such companies' security holders; * * * when investment companies issue securities containing inequitable or discriminatory provisions, or fail to protect the preferences and privileges of the holders of their outstanding securities * * *''. For all the reasons stated in the Application, the Section 17 Applicants state that, the abuses described in Sections l(b)(2) and (3) of the Act will not occur in connection with the proposed in-kind purchases.

15. The Commission has previously granted exemptions from Section 17(a) in circumstances substantially similar in all material respects to those presented in this Application to applicants affiliated with an open-end management investment company that proposed to purchase shares issued by the company with investment securities of the type that the company might otherwise have purchased for its portfolio. In these cases, the Commission issued an order pursuant to Section 17(b) of the Act where the expense of liquidating such investment securities and using the cash-proceeds to purchase shares of the investment company would have reduced the value of investors' ultimate investment in such shares.

Conclusions

1. Applicants request an order of the Commission pursuant to Section 26(c) of the 1940 Act approving the Substitutions. Section 26(c), in pertinent part, provides that the Commission shall issue an order approving a substitution of securities if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. For the reasons and upon the facts set forth in the Application, the Applicants state that the requested order meets the standards set forth in Section 26(c) and should, therefore, be granted.

2. Section 17 Applicants request that the Commission issue an order pursuant to Section 17(b) of the Act exempting the Separate Accounts, JNL and the affected NLVT series from the provisions of Section 17(a) of the Act to the extent necessary to permit, as part of the Substitutions, the in-kind purchase of shares of the Replacement Funds which may be deemed to be prohibited by Section 17(a) of the Act. The Section 17 Applicants represent that the proposed in-kind transactions meet all of the requirements of Section 17(b) of the Act and that an exemption should be granted, to the extent necessary, from the provisions of Section 17(a).

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–6867 Filed 4–10–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27778; File No. 812–13347]

MetLife Insurance Company of Connecticut, et al.

April 6, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order of approval pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''Act''), and an order of exemption pursuant to Section 17(b) of the Act from Section 17(a) of the Act.

APPLICANTS: MetLife Insurance Company of Connecticut (''MetLife of CT''), MetLife of CT Separate Account Five for Variable Annuities (''Separate Account Five''), MetLife of CT Separate Account Seven for Variable Annuities (''Separate Account Seven''), MetLife of CT Separate Account Nine for Variable Annuities (''Separate Account Nine''), MetLife of CT Separate Account Eleven for Variable Annuities (''Separate Account Eleven''), MetLife of CT Separate Account Thirteen for Variable Annuities (''Separate Account Thirteen''), MetLife of CT Fund U for Variable Annuities (''Fund U''), MetLife of CT Separate Account PF for Variable Annuities (''Separate Account PF''),

MetLife of CT Separate Account TM for Variable Annuities (''Separate Account TM''), MetLife of CT Fund ABD for Variable Annuities (''Fund ABD''), MetLife of CT Fund BD for Variable Annuities (''Fund BD''), MetLife of CT Separate Account QP for Variable Annuities (''Separate Account QP''), MetLife of CT Separate Account QPN for Variable Annuities (''Separate Account QPN''), MetLife of CT Fund BD III for Variable Annuities (''Fund BD III''), MetLife Insurance Company of CT Variable Annuity Separate Account 2002 (''Separate Account 2002''), MetLife of CT Separate Account PP for Variable Life Insurance (''Separate Account PP''), MetLife of CT Separate Account CPPVUL I (''Separate Account CPPVUL I''), MetLife of CT Separate Account Three (''Variable Life Separate Account Three''), MetLife of CT Fund UL III for Variable Life Insurance (''Fund UL III''), MetLife of CT Fund UL for Variable Life Insurance (''Fund UL''), MetLife Life and Annuity Company of Connecticut (''MetLife LAN''), MetLife of CT Separate Account One (''Separate Account One''), MetLife of CT Separate Account Six for Variable Annuities (''Separate Account Six''), MetLife of CT Separate Account Eight for Variable Annuities (''Separate Account Eight''), MetLife of CT Separate Account Ten for Variable Annuities (''Separate Account Ten''), MetLife of CT Separate Account Twelve for Variable Annuities (''Separate Account Twelve''), MetLife of CT Separate Account Fourteen for Variable Annuities (''Separate Account Fourteen''), MetLife of CT Separate Account PF II for Variable Annuities (''Separate Account PF II''), MetLife of CT Separate Account TM II for Variable Annuities (''Separate Account TM II''), MetLife of CT Fund ABD II for Variable Annuities (''Fund ABD II''), MetLife of CT Fund BD II for Variable Annuities (''Fund BD II''), MetLife of CT Fund BD IV for Variable Annuities (''Fund BD IV''), MetLife Life and Annuity Company of CT Variable Annuity Separate Account 2002 (''MetLife LAN Separate Account 2002''), MetLife of CT Fund UL II for Variable Life Insurance (''Fund UL II''), MetLife Investors Insurance Company (''MetLife Investors''), MetLife Investors Variable Annuity Account One (''VA Account One''), MetLife Investors Variable Annuity Account Five (''VA Account Five''), MetLife Investors Variable Life Account One (''VL Account One''), MetLife Investors Variable Life Account Five (''VL Account Five''), First MetLife Investors Insurance Company (''First MetLife Investors''), First MetLife Investors Variable Annuity Account One (''First VA Account One''), MetLife Investors USA Insurance Company (''MetLife Investors USA''), MetLife Investors USA Separate Account A (''Separate Account A''), Metropolitan Life Insurance Company (''MetLife''), Metropolitan Life Separate Account UL (''Separate Account UL''), Metropolitan Life Variable Annuity Separate Account I (formerly First Citicorp Life Variable Annuity Separate Account) (''Separate Account I''), Metropolitan Life Variable Annuity Separate Account II (formerly Citicorp Life Variable Annuity Separate Account) (''Separate Account II''); Security Equity Separate Account Nine (''SE Separate Account Nine''), Security Equity Separate Account Thirty Five (''SE Separate Account Thirty Five''), Security Equity Separate Account Fifty Two (''SE Separate Account Fifty Two''), Security Equity Separate Account Seventy Three (''SE Separate Account Seventy Three''), New England Life Insurance Company (''New England''), New England Variable Life Separate Account Four (''NEVL Separate Account Four''), New England Variable Life Separate Account Five (''NEVL Separate Account Five''), General American Life Insurance Company (''General American'', together with MetLife of CT, MetLife LAN, MetLife Investors, First MetLife Investors, MetLife Investors USA, MetLife, and New England, the ''Insurance Companies''), General American Separate Account Seven (''GA Separate Account Seven''), General American Separate Account Twenty-Eight (''GA Separate Account Twenty-Eight''), General American Separate Account Twenty-Nine (''GA Separate Account Twenty-Nine''), General American Separate Account Thirty Three (''GA Separate Account Thirty Three'', together with Separate Account Six, Separate Account Seven, Separate Account Eight, Separate Account Nine, Separate Account Ten, Separate Account Eleven, Separate Account Twelve, Separate Account Thirteen, Separate Account Fourteen, Fund U, Separate Account PF, Separate Account TM, Fund ABD, Fund BD, Separate Account QP, Separate Account QPN, Fund BD III, Separate Account 2002, Separate Account PP, Separate Account CPPVUL I, Separate Account One, Separate Account Five, Separate Account Three, Fund UL III, Fund UL, Separate Account PF II, Separate Account TM II, Fund ABD II, Fund BD II, Fund BD IV, MetLife LAN Separate Account 2002, Fund UL II, VA Account One, VA Account Five, First VA Account One, First VA Account, One, VL Account One, VL Account Five, Separate Account A, Separate Account UL, Separate Account I, Separate Account II, SE Separate Account Nine, SE Separate Account Seventy Three, SE Separate Account Thirty Five, SE Separate Account Fifty Two, NEVL Separate Account Four, NEVL Separate Account Five, GA Separate Account Seven, GA Separate Account Twenty-Eight, and GA Separate Account Twenty-Nine, the ''Separate Accounts''), Met Investors Series Trust (''MIST'') and Metropolitan Series Fund, Inc. (''Met Series Fund'' together with MIST, the ''Investment Companies''). The Insurance Companies and the Separate Accounts are referred to as the ''Substitution Applicants'' or ''Applicants''. The Insurance Companies, the Separate Accounts and the Investment Companies are the ''Section 17 Applicants''.

SUMMARY OF APPLICATION: Applicants seek an order approving the substitution of certain series of the Investment Companies for shares of series of other, registered investment companies held by the Separate Accounts to fund certain group and individual variable annuity contracts and variable life insurance policies issued by the Insurance Companies (collectively, the ''Contracts''). The Section 17 Applicants seek an order pursuant to Section 17(b) of the Act to permit certain in-kind transactions in connection with the Substitutions.

FILING DATE: The application was filed on November 30, 2006, and an amended and restated application was filed on April 5, 2007.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 2007, and should be accompanied by proof of service on Applicants, in the form of an affidavit or for lawyers a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issued contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Applicants c/o Paul G. Cellupica, Chief Counsel—Securities Products and Regulation, MetLife Group, One MetLife Plaza, 27–01 Queens Plaza North, Long Island City, NY 11101.

FOR FURTHER INFORMATION CONTACT: Robert S. Lamont, Jr., Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Washington, DC 20549 (202) 551–8090.

Applicants' Representations

1. MetLife of CT is a stock life insurance company organized in 1863 under the laws of Connecticut. MetLife LAN is a stock life insurance company organized in 1973 under the laws of Connecticut. MetLife Investors is a stock life insurance company organized on August 17, 1981, under the laws of Missouri. First MetLife Investors is a stock life insurance company organized on December 31, 1992, under the laws of New York. MetLife Investors USA is a stock life insurance company organized on September 13, 1960, under the laws of Delaware. MetLife is a stock life insurance company organized in 1868 under the laws of New York. New England is a stock life insurance company organized in 1980 under the laws of Delaware. General American is a stock life insurance company organized in 1933 under the laws of Missouri.

2. Separate Account Five, Separate Account Seven, Separate Account Eleven, Separate Account Thirteen, Fund U, Separate Account PF, Separate Account TM, Fund ABD, Fund BD, Separate Account QP, Fund BD III, Separate Account 2002, Fund UL, Separate Account One, Separate Account Three, Separate Account Six, Separate Account Eight, Separate Account Ten, Separate Account Twelve, Separate Account Fourteen, Separate Account PF II, Separate Account TM II, Fund ABD II, Fund BD II, Fund BD IV, MetLife LAN Separate Account 2002, Fund UL II, VA Account One, VL Account One, VL Account Five, First VA Account One, VA Account Five, Separate Account A, Separate Account UL, Separate Account II, Separate Account I, GA Separate Account Twenty-Eight, and GA Separate Account Twenty-Nine are registered under the Act as unit investment trusts for the purpose of funding the Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933.

3. Separate Account Nine and Fund UL III were established as segregated asset accounts under Connecticut law in 1999. Separate Account Nine and Fund UL III are registered under the Act as a unit investment trusts for the purpose of funding the Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933.

4. Separate Account QPN is exempt from registration under the Act. Security interests under the Contracts have been registered under the Securities Act of 1933.

5. Separate Account PP, Separate Account CCPVUL I, SE Separate Account Nine, SE Separate Account Thirty Five, SE Separate Account Fifty Two, SE Separate Account Seventy Three, NEVL Separate Account Four, NEVL Separate Account Five, GA Separate Account Seven, and GA Separate Account Thirty Three serve as separate account funding vehicles for certain Contracts that are exempt from registration under Section 4(2) of the Securities Act of 1933 and Regulation D thereunder.

6. The variable contracts funded by the separate accounts affected by this application are Flexible Premium Variable Annuity (CitiElite) (1933 Act File #333–138112 and 333–138113), Flexible Premium Deferred Variable Annuity (CitiVariable) (1933 Act File #333–138114 and 333–138115), Marquis (1933 Act File #333–40193, 333–40191, 333–125618 and 333–125756), MetLife Access Annuity (1933 Act File #333–23311 and 333–23327), MetLife Access Select Annuity (1933 Act File #333–23311 and 333–23327), MetLife Index Annuity (1933 Act File #333–27689 and 333–27687), MetLife Retirement Account (1933 Act File #333–58783 and 333–58809), MetLife Retirement Perspectives—Registered (1933 Act File #333–118412), Pioneer Annuistar Annuity (1933 Act File #333–101777 and 333–101815), Pioneer Annuistar Flex Annuity (1933 Act File #333–65926 and 333–65922), Pioneer Annuistar Plus Annuity (1933 Act File #333–101778 and 333–101814), Pioneer Annuistar Value Annuity (1933 Act File #333–101777 and 333–101815), Portfolio Architect 3 Annuity (1933 Act File #333–65926 and 333–65922), Portfolio Architect Access Annuity (1933 Act File #333–100435 and 333–100434). Portfolio Architect Annuity (1933 Act File #033–65343 and 033–65339), Portfolio Architect II Annuity (1933 Act File #333–101777 and 333–101815), Portfolio Architect L Annuity (1933 Act File #333–65926 and 333–65922), Portfolio Architect Plus Annuity (1933 Act File #333–101778 and 33–101814), Portfolio Architect Select Annuity (1933 Act File #033–65343 and 033–65339), Portfolio Architect XTRA Annuity (1933 Act File #333–70657 and 333–70659), Premier Advisers—Asset Manager Annuity (1933 Act File #333–60227 and 333–60215), Premier Advisers Annuity Class I & II (1933 Act File #033–65343 and 033–65339), Premier Advisers II Annuity (1933 Act File #333–65506 and 333–65500), Premier Advisers III Annuity Series I & II (1933 Act File #333–65506 and 333–65500), Premier Advisers L Annuity Series I and II (1933 Act File #333–60227 and 333–60215), PrimElite I (1933 Act File #333–32589 and 333–32581), PrimElite II (1933 Act File #333–72334 and 333–72336), Registered Blueprint I (1933 Act File #333–136191), Registered Blueprint II (1933 Act File #333–136191), Registered Prime Builder I (1933 Act File #333–136191), Registered Prime Builder II (1933 Act File #333–136191), Registered GoldTrack (1933 Act File #333–00165), Registered GoldTrack Select (1933 Act File #333–00165), Scudder, Advocate Advisor Annuity (1933 Act File #333–100435 and 333–100434), Scudder Advocate Advisor—ST1 Annuity (1933 Act File #333–100435 and 333–100434), Scudder Advocate Rewards Annuity (1933 Act File #333–101778 and 333–101814), Universal Annuity (1933 Act File #002–79529), Universal Annuity Advantage (1933 Act File #333–117028), Universal Select Annuity (1933 Act File #333–116783), Vintage Annuity (1933 Act File #033–73466 and 033–58131), Vintage 3 Annuity (1933 Act File #333–65926 and 333–65922), Vintage Access Annuity (1933 Act File #333–100435 and 333–100434), Vintage II Annuity (1933 Act File #333–82009 and 333–82013), Vintage II (Series II) Annuity (1933 Act File #333–82009 and 333–82013), Vintage L Annuity (1933 Act File #333–65926, 333–65922, 333–125613 and 333–125753), Vintage XTRA (Series II) Annuity (1933 Act File #333–70657 and 333–70659), Vintage XTRA Annuity (1933 Act File #333–70657 and 333–70659), Class AA (1933 Act File #333–96773, 333–50540, 333–138563), Class A (1933 Act File #333–96775, 333–54358, 333–138567), Class B (1933 Act File #333–96773, 333–50540, 333–138563), Destiny Select (1933 Act File #033–39100), Navigator Select (1933 Act File #333–34741 and 333–138569), Premier, Advisor (1933 Act File #033–39100), Prevail (1933 Act File #033–39100), Cova VA (1933 Act File #033–14979 and 333–138571), Cova VA Series A (1933 Act File #333–90405 and 333–138563), Custom-Select (1933 Act File #033–74174, 333–34741 and 333–138569), First Cova Custom-Select (1933 Act File #033–74174), Firstar Summit

(1933 Act File #033–39100), PrimElite III (1933 Act File #333–125617 and 333–125756), Separate Account 29 VA (1933 Act File #033–54774), Cova SPVL (1933 Act File #333–17963 and 333–138576), Custom Select Flex VUL (1933 Act File #333–83197 and 333–138574), Custom Select Flex JSVUL (1933 Act File #333–83165 and 333–138573), MarketLife (1933 Act File #002–88637 and 033–63927), Invest (1933 Act File #002–88637), MetLife Variable Life (1933 Act File #333–96519 and 333–96517), MetLife Variable Life Accumulator Series (1933 Act File #333–96515 and 333–96521), MetLife Variable Life Accumulator Series 2 (1933 Act File #333–96515 and 333–96521), MetLife Variable Life Accumulator Series 3 (1933 Act File #333–113109 and 333–113110), MetLife Variable Survivorship Life (1933 Act File #333–69771 and 333–69773), MetLife, Variable Survivorship Life II (1933 Act File #333–56952 and 333–56958), VintageLife (1933 Act File #033–88578 and 033–88576), COLI 2000 (1933 Act File #333–94779), COLI 1 (1933 Act File #333–71349), COLI 1—Series 2 (Siemens) (1933 Act File #333–71349), COLI III (1933 Act File #333–94779), COLI IV (1933 Act File #333–113533), COLI Select (1933 Act File #333–105335).

7. MIST and Met Series Fund are each registered under the Act as open-end management investment companies of the series type, and their securities are registered under the Securities Act of 1933. Met Investors Advisory, LLC and MetLife Advisers, LLC serve as investment adviser to MIST and Met Series Fund, respectively.

8. Under the annuity contracts, the Insurance Companies reserve the right to substitute shares of one fund with shares of another, including a fund of a different registered investment company.

9. Each Insurance Company, on its behalf and on behalf of the Separate Accounts, proposes to make certain substitutions of shares of thirty-nine funds (the ''Existing Funds'') held in sub-accounts of its respective Separate Accounts for certain series (the ''Replacement Funds'') of MIST and Met Series Fund.

10. The proposed substitutions are as follows: Shares of Met Series Fund's MetLife Stock Index Portfolio for shares of the Dreyfus Stock Index Fund, Inc. and DWS Equity 500 Index VIP; shares of Met Series Fund's BlackRock Diversified Portfolio for shares of Fidelity VIP Asset Manager Portfolio and DWS Balanced VIP; shares of MIST's Neuberger Berman Real Estate Portfolio for shares of Delaware VIP REIT Series and DWS RREEF Real Estate Securities VIP; shares of Met Series Fund's Oppenheimer Global Equity Portfolio for shares of Universal Institutional Funds Global Value Equity Portfolio; shares of MIST's Lord Abbett Mid-Cap Value Portfolio for shares of Lord Abbett Series Fund Mid-Cap Value Portfolio; shares of MIST's Lord Abbett Growth and Income Portfolio for shares of Lord Abbett Series Fund Growth and Income Portfolio and DWS Growth & Income VIP; shares of Met Series Fund's MFS Total Return Portfolio for shares of Janus Aspen Series Balanced Portfolio; shares of Met Series Fund's T. Rowe Price Large Cap Growth Portfolio for shares of Janus Aspen Series Growth and Income Portfolio and DWS Janus Growth & Income VIP; shares of Met Series Fund's Neuberger Berman Mid Cap Value Portfolio for shares of Universal Institutional Funds; shares of MIST's Third Avenue Small Cap Value Portfolio for shares of Putnam VT Small Cap Value Fund Lazard Retirement Small Cap Portfolio; shares of MIST's Loomis Sayles Global Markets Portfolio for shares of Templeton Global Asset Allocation Fund; shares of MIST's MFS Research International Portfolio for shares of Putnam VT International Equity Fund and DWS International VIP and DWS International Select Equity VIP; shares of MIST's MFS Emerging Markets Equity Portfolio for shares of Credit Suisse Emerging Markets Portfolio and Universal Institutional Funds Emerging Markets Equity Portfolio; shares of MIST's Met/AIM Capital Appreciation Portfolio for shares of AIM V.I. Capital Appreciation Fund; shares of Met Series Fund's Capital Guardian U.S. Equity Portfolio for shares of AIM V.I. Core Equity and MFS Investors Trust Series; shares of MIST's PIMCO Inflation Protected Bond Portfolio for shares of PIMCO Real Return; shares of Met Series Fund's Russell 2000 Index Portfolio for shares of DWS Small Cap Index; shares of Met Series Fund's BlackRock Bond Income Portfolio for shares of DWS Bond VIP and DWS Core Fixed Income VIP; shares of MIST's T. Rowe Price Mid-Cap Growth Portfolio for shares of DWS Mid Cap Growth VIP; shares of Met Series Fund's FI Value Leaders Portfolio for shares of DWS Blue Chip VIP; shares of MIST's BlackRock High Yield Portfolio for shares of DWS High Income VIP; shares of Met Series Fund's BlackRock Money Market Portfolio for shares of DWS Money Market VIP; shares of Met Series Fund's T. Rowe Price Small Cap Growth Portfolio for shares of DWS Small Cap Growth VIP; shares of MIST's Pioneer Strategic Income Portfolio for shares of DWS Strategic Income VIP; shares of Met Series Fund's BlackRock Large Cap Value Portfolio for shares of DWS Dreman High Return Equity VIP; shares of Met Series Fund's Davis Venture Value Portfolio for shares of DWS Davis Venture Value VIP; shares of MIST's Turner Mid-Cap Growth Portfolio for shares of DWS Turner Mid Cap Growth VIP; and shares of MIST's MFS Value Portfolio for shares of DWS Large Cap Value VIP.

11. Following is a summary of the investment objectives and policies of the Existing Funds and the respective Replacement Funds. Additional information including asset sizes, risk factors and comparative performance history for each Existing Fund and each Replacement Fund can be found in the Application.

Existing Fund	Replacement Fund
Dreyfus Stock Index Fund, Inc.—seeks to match the total return of the S&P 500 Index. The Fund generally invests in all 500 stocks in the S&P 500 Index in proportion to their weighting in the Index. The Fund attempts to have a correlation between its performance and that of the S&P 500 Index of at least 95% before expenses.	MetLife Stock Index Portfolio—seeks to equal the performance of the S&P 500 Index. The Portfolio purchases the common stocks of all the companies in the S&P Index. The Portfolio also expects to invest in exchange traded funds and futures contracts based on the S&P 500 Index and/or related options. The investment adviser attempts to maintain a target correlation between its performance and that of the S&P 500 Index of at least 95%.
DWS Equity 500 Index VIP—seeks to replicate as closely as possible before deduction of expenses, the performance of the S&P 500 Index. The Portfolio invests for capital appreciation, not income; any dividend and interest income is incidental to the pursuit of its objective. The Portfolio invests primarily in the securities included in the S&P 500 Index and derivative instruments relating to the Index.	

Existing Fund	Replacement Fund
VIP Asset Manager Portfolio—seeks a high total return with reduced risk over the long term by allocating its assets among stocks and bonds of large market capitalization companies and short term instruments. The Portfolio maintains a neutral mix over time of 50% of assets in stocks, 40% of assets in bonds, and 10% of assets in short-term money market instruments. The Portfolio may adjust the allocation among the asset classes gradually within the following ranges: stock class (30%–70%), bond class (20%–60%), and short-term and money market class (0%–50%). The Portfolio may invest up to 50% of its net assets in foreign securities. The Portfolio may invest up to 15% of its assets in non-investment grade debt securities.	BlackRock Diversified Portfolio—seeks high total return while attempting to limit investment risk and preserve capital. The Portfolio invests its assets in equity securities and fixed-income securities. The amount of assets invested in each type of security will depend upon economic conditions, the general level of common stock prices, interest rates and other considerations including risks associated with each type of security. The Portfolio seeks to maintain the market capitalization, sector allocations and style characteristics similar to those of the S&P 500 Index. The Portfolio's fixed income investments will be investment grade and non-investment grade (up to 20% of total assets) and up to 20% of its total assets in foreign securities (including up to 10% in emerging markets); provided that the fixed income portion of the Portfolio may not invest more than 30% of its assets in high yield securities and foreign securities combined.
DWS Balanced VIP—seeks high total return, a combination of income and capital appreciation. The Portfolio follows a flexible investment program, investing in a mix of growth and value stocks of large and small capitalization companies and bonds. The investment adviser employs a team approach to allocate the Portfolio's assets among the various asset classes. The Portfolio normally invests approximately 60% of its net assets in common stocks and other equity securities and approximately 40% of its net assets in fixed income securities The Portfolio may invest up to 25% of its total assets in foreign securities.	
Lord Abbett Series Fund Mid-Cap Value Portfolio—seeks capital appreciation through investments, primarily in equity securities, which are believed to be undervalued in the marketplace. The Portfolio invests at least 80% of its assets in mid-sized companies with a capitalization range of the companies in the Russell Mid Cap Index. The Portfolio invests primarily in common stocks, including convertible securities, of companies with good prospects for improvement in earning trends or asset values that are not yet fully recognized. The Portfolio may invest up to 10% of its assets in foreign securities that are primarily traded outside of the U.S. The manager of the Fund also manages the Replacement Fund.	Lord Abbett Mid-Cap Value Portfolio—seeks capital appreciation through investments, primarily in equity securities, which are believed to be undervalued in the marketplace. The Portfolio invests at least 80% of its assets in mid-sized companies with a capitalization range of the companies in the Russell Mid Cap Index . The Portfolio invests primarily in common stocks, including convertible securities, of companies with good prospects for improvement in earning trends or asset values that are not yet fully recognized. The Portfolio may invest up to 10% of its assets in foreign securities that are primarily traded outside of the U.S.
Lord Abbett Series Fund Growth and Income Portfolio—seeks long-term growth of capital and income without excessive fluctuations in market price. Under normal circumstances the Portfolio will invest at least 80% of its net assets in equity securities (including, common stocks, preferred stocks, convertible securities, warrants and similar investments) of large, seasoned U.S. and multinational companies. The Portfolio invests primarily in the securities of companies that fall within the market capitalization range of the Russell 1000 Index. The Portfolio may also invest up to 10% of its assets in the securities of foreign issuers, (the Portfolio does not consider American Depositary Receipts (''ADRs'') as a foreign security). The manager of the Portfolio also manages the Replacement Fund.	Lord Abbett Growth and Income Portfolio—seeks long-term growth of capital and income without excessive fluctuation in market value. The Portfolio normally invests 80% of its net assets in equity securities of large (at least $5 billion of market capitalization), seasoned U.S. and multinational companies that are believed to be undervalued. The Portfolio may also invest in foreign securities up to 10% of its assets.
DWS Growth & Income VIP—seeks long-term growth of capital, current income and growth of income. The Portfolio invests at least 65% of its assets in equities mainly common stocks. Although the Portfolio can invest in companies of any size and from any country, it invests primarily in large U.S. companies. The investment adviser looks for companies with strong prospects for continued growth of capital and earnings. The Portfolio may also invest up to 25% of its assets in foreign securities.	
Global Value Equity Portfolio—seeks long-term capital appreciation by investing primarily in equity securities of issuers throughout the world, including U.S. issuers. The investment adviser selects securities believed to be undervalued for investment primarily from a universe of issuers located in developed markets, but may also invest in emerging markets. At least 20% of the Portfolio's assets will be invested in U.S. issuers. At least 80% of the Portfolio's assets will be invested in equity securities.	Oppenheimer Global Equity Portfolio—seeks capital appreciation. Under normal circumstances the Portfolio invests at least 80% of its net assets in equity securities. The Portfolio seeks broad portfolio diversification in different countries to help moderate the special risks of foreign investing. The Portfolio may invest without limitation in foreign securities, including developing and emerging markets. The Portfolio emphasizes its investments in developed markets such as the United States, Western European countries and Japan.
U.S. Mid Cap Value Portfolio—seeks above-average total return over a market cycle of three to five years by investing in common stocks and other equity securities. The Portfolio invests primarily in common stocks of companies traded on a U.S. securities exchange with capitalizations generally in the range of companies included in the Russell Midcap Value Index. The Portfolio may invest up to 20% of its assets in real estate investment trusts and up to 20% of its assets in foreign securities (which excludes securities of foreign companies that are listed in the U.S. on a national stock exchange.	Neuberger Berman Mid Cap Value Portfolio—seeks capital growth. The Portfolio invests at least 80% of its assets in equity securities of mid-cap companies believed to be undervalued. The investment adviser defines mid-cap companies with a market capitalization within the range of the market capitalization of companies included in the Russell Midcap Index. The Portfolio may invest in foreign securities. Although not a principal investment strategy, the Portfolio may also invest in real estate investment trusts.

Existing Fund	Replacement Fund
Putnam VT Small Cap Value Fund—seeks capital appreciation. The Fund invests mainly in common stocks of U.S. companies with a focus on value stocks. Under normal conditions, at least 80% of the Fund's assets are invested in small companies of a size similar to those on the Russell 2000 Value Index. The Fund may invest in foreign securities. The Fund may also engage in a variety of transactions including derivatives, such as options, futures, warrants and swap contracts. Although there are no stated limits on investments in derivatives and foreign securities, the Fund normally invests at least 65% of its assets in the securities of U.S. companies.	Third Avenue Small Cap Value Portfolio—seeks long-term capital appreciation. Normally, the Portfolio, invests at least 80% of its net assets in equity securities of small companies whose market capitalization is no greater than nor less than the range of capitalization of companies in the Russell 2000 Index or the S&P Small Cap 600 Index. The Portfolio seeks to acquire common stocks of well-financed companies at a substantial discount to what the investment adviser believes is their true value. The Portfolio may invest up to 35% of its assets in foreign securities. The Portfolio is non-diversified but the Portfolio will be managed as a diversified portfolio indefinitely.
Lazard Retirement Small Cap Portfolio—seeks long-term capital appreciation. Under normal circumstances, at least 80% of the Portfolio's assets are invested in equity securities, primarily common stocks, of small-cap companies with market capitalizations within the range of the companies included in the Russell 2000 Index. The portfolio manager looks for companies that are undervalued relative to their earnings, cash flow, asset values or other measures of value. The Portfolio may also invest up to 20% of its assets in equity securities of larger U.S. companies. The Portfolio occasionally invests in foreign securities. There are no stated limits for investments in foreign securities.	
Templeton Global Asset Allocation Fund—seeks high total return. The Fund invests in equity securities of companies in any country, debt securities of companies and governments of any country, and money market securities. There is no minimum or maximum percentage targets for each asset class. Under normal conditions, the Fund invests substantially to primarily in equity securities. The Fund's debt investments generally focus on investment grade securities. The Fund may also purchase high yield debt securities.	Loomis Sayles Global Markets Portfolio—seeks high total return through a combination of capital appreciation and income. The Portfolio invests primarily in equity and fixed income securities of U.S. and foreign issuers including issuers located in emerging markets. The adviser allocates investment among foreign and domestic equities and fixed income securities. In determining equity investments, the adviser looks for companies with the potential for superior earnings growth relative to current value. In purchasing debt securities, the adviser looks for securities believed to be undervalued and to have the potential for credit upgrades. The Portfolio may purchase high yield debt securities. The Portfolio may engage in foreign currency hedging transactions and options and futures transactions.
Putnam VT International Equity Fund—seeks capital appreciation. The Fund invests under normal circumstances, at least 80% of its assets in equity securities, mainly common stocks of companies outside the U.S. that are believed to be undervalued. The Fund invests mainly in mid sized and large companies, but may invest in companies of any size. The Fund may invest in emerging market companies. The Fund may engage in a variety of transactions involving derivatives, such as futures, options, warrants and swap contracts.	MFS Research International Portfolio—seeks capital appreciation. The Portfolio invests at least 65% of its assets in common stocks and related securities, such as preferred stocks, convertible securities and depository receipts. The Portfolio focuses on companies (including up to 25% of its assets in emerging market issuers) that are believed to have favorable growth prospects and attractive valuations based on current and expected earnings or cash flow. The Portfolio may invest in companies of any size. The Portfolio will invest in at least five countries. Although not a principal strategy, the Portfolio may engage in options, futures and foreign currency transactions.
DWS International VIP—seeks long-term growth of capital primarily through diversified holdings of marketable foreign equity investments. Although the Portfolio can invest in companies of any size and from any country (other than the U.S.), it invests mainly in common stocks of established companies in countries with developed economies. Investments in emerging market issuers are limited to 15% of assets. The portfolio manager looks for companies with a history of above-average growth, strong competitive positioning, attractive prices relative to potential growth, sound financial strength and effective management, among other factors. The Portfolio may, but is not required to use derivatives.	
DWS International Select Equity VIP—seeks capital appreciation. Under normal circumstances, the Portfolio invests at least 80% of its net assets in equity securities and other securities with equity characteristics. Under normal market conditions, the Portfolio invests in securities of issuers with a minimum market capitalization of $500 million. The Portfolio primarily invests in the countries that make up the MSCI EAFE Index. At least 50% of the Portfolio's assets will be invested in securities that are represented in the MSCI EAFE Index. However, the Portfolio may invest up to 50% of its net assets in non-index securities in companies located in the countries that make up the Index. The Portfolio manager looks for companies with high and sustainable return on capital and long-term prospects for growth. Although not one of its principal investment strategies, the Portfolio is permitted to use various types of derivatives. In particular, the Portfolio may use futures, currency options and forward currency transactions.	

Existing Fund	Replacement Fund
Credit Suisse Emerging Markets Portfolio—seeks long-term growth of capital. The Portfolio invests at least 80% of its assets in foreign equity securities focusing on issuers in emerging markets. The Portfolio analyzes a company's growth potential in choosing investments. The Portfolio may invest up to 20% of its assets in investment grade debt securities and non-market grade debt securities and up to 25% of its assets in options.	MFS Emerging Markets Equity Portfolio—seeks capital appreciation. The Portfolio invests at least 80% of its assets in common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts of emerging market issuers. While the Portfolio may invest up to 50% of its assets in issuers located in a single country, the Portfolio expects to have no more than 25% of its assets invested in issuers located in any one country. While not a principal strategy, the Portfolio may invest in options and futures, foreign currency transactions and foreign debt securities, including high yield debt securities.
Emerging Markets Equity Portfolio—seeks long-term capital appreciation by investing primarily in growth-oriented equity securities of issuers in emerging market countries. At least 80% of the Portfolio's assets will be invested in equity securities of emerging market issuers. The Portfolio may invest in certain instruments such as derivatives, and may use certain techniques such as hedging to risk including currency risk.	
AIM V.I. Capital Appreciation Fund—seeks growth of capital. The Fund invests principally in common stocks of domestic and foreign companies that are believed likely to benefit from new or innovative products, services or processes as well as those that have experienced above-average, long-term growth in earnings and have excellent prospects for future growth. The Fund may purchase call options for hedging purposes and write covered call options on no more than 20% of the value of its assets. The manager of the Portfolio also manages the Replacement Fund.	Met/AIM Capital Appreciation Portfolio—seeks capital appreciation. The Portfolio invests principally in common stocks of domestic and foreign companies that are believed likely to benefit from new or innovative products, services or processes, as well as those that have experienced above-average, long-term growth in earnings and have excellent prospects for future growth. The Portfolio may buy ''growth'' or ''value'' stocks. The Portfolio may invest in small, relative new or unseasoned companies. The Portfolio may purchase call options for hedging purposes and write covered call options or no more than 20% of the value of its assets.
AIM V.I. Core Equity Fund—seeks growth of capital. The Fund invests at least 80% of its assets in equity securities including convertible securities of established companies believed to have long-term above-average growth in earnings and growth companies believed to have the potential for above-average growth in earnings. The Fund may invest in instruments that have economic characteristics similar to the Fund's direct investments such as warrants, futures, options, exchange-traded funds and American Depositary Receipts. The Fund may invest up to 25% of its assets in foreign securities.	Capital Guardian U.S. Equity Portfolio—seeks long-term growth of capital. The Portfolio invests at least 80% of its assets in equity securities of companies with market capitalizations greater than $1 billion at the time of investment. The Portfolio may also invest in fixed income securities convertible into equity securities. The Portfolio may invest up to 15% of its assets in foreign securities, including securities of issuers in emerging markets. The Portfolio's adviser seeks companies with asset values believed to be understated, strong balance sheets and stock prices not considered excessive relative to book value.
MFS Investors Trust Series—seeks mainly to provide long-term growth of capital and secondarily reasonable current income. The Series invests at least 65% of its assets in common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts. While the Series may invest in companies of any size, it generally focuses on companies with large market capitalization believed to have sustainable growth prospects and attractive valuations based on annual and expected earnings and cash flow. The Series may invest in foreign equity securities.	

Existing Fund	Replacement Fund
PIMCO Real Return Portfolio—seeks maximum real return consistent with preservation of real capital and prudent investment management. The Portfolio invests at least 80% of its assets in inflation-indexed bonds of varying maturities issued by U.S. and non-U.S. governments, their agencies or government-sponsored enterprises and corporations. The average portfolio duration normally varies within three years (plus or minus) of the duration of the Lehman Brothers U.S. TIPS Index. The Portfolio may invest up to 10% of its assets in junk bonds rated B or higher. The Portfolio may invest up to 30% of its total assets in securities denominated in foreign currencies and may invest without limit in U.S. dollar denominated securities of foreign issuers. The Portfolio will normally hedge at least 75% of its exposure to foreign currency to reduce risk. The Portfolio is non-diversified. The Portfolio may invest all of its assets in derivative instruments such as options, futures contracts or swap agreements, or in mortgage-or-asset-backed securities. The manager of the Portfolio also manages the Replacement Fund.	PIMCO Inflation Protected Bond Portfolio—seeks maximum real return, consistent with presentation of capital and prudent investment management. The Portfolio seeks to achieve its investment objective by investing under normal circumstances at least 80% of its net assets in inflation-indexed bonds of varying maturities issued by the U.S. and non-U.S. governments, their agencies or instrumentalities, and corporations (either through cash market purchases, forward commitments or derivative instruments). The average portfolio duration of the Portfolio normally will vary within (plus or minus) three years of the duration of the Lehman Global Real: U.S. TIPS Index. Principal investments may include inflation-indexed bonds and other fixed income securities issued by the U.S. government or its subdivisions, agencies or government-sponsored enterprises, non-U.S. governments or their subdivisions, agencies or government-sponsored enterprises, and U.S. and foreign companies including mortgage-related securities; money market instruments; structured notes such as hybrid or ''indexed'' securities, event-linked bonds, and loan participations; delayed funding loans; revolving credit facilities; debt securities issued by states or local governments and their agencies, authorities and other government-sponsored enterprises; and obligations of international agencies or supranational entities. The Portfolio also may invest up to 30% of its assets in securities denominated in foreign currencies, and may invest up to 30% of its assets in securities denominated in foreign currencies, and may invest beyond this limit in U.S. dollar denominated securities of foreign issuers. The Portfolio will normally hedge at least 75% of its exposure to foreign currency to reduce the risk of loss due to fluctuations in currency exchange rates. The Portfolio is non-diversified. The Portfolio may invest all of its assets in derivative instruments, such as options, futures contracts or swap agreements, or in mortgage-or asset-backed securities.
Delaware VIP REIT Series—seeks maximum long-term total return, and a secondary objective of capital appreciation. The Series is non-diversified. Under normal circumstances the Series will invest at least 80% of its net assets in securities of real estate investment trusts. The Series may also invest in the equity securities of real estate industry operating companies. The Series may invest up to 10% of its net assets in foreign securities, not including American Depositary Receipts. The Series may also invest in convertible securities, debt and non-traditional equity securities, options and futures; repurchase agreements; restricted securities; illiquid securities; and when issued or delayed delivery securities.	Neuberger Berman Real Estate Portfolio—seeks total return through investment in real estate securities, emphasizing both capital appreciation and current income. The Portfolio is non-diversified. The Portfolio invests, normally, at least 80% of its assets in equity securities of real estate investment trusts and other securities issued by real estate companies. The Portfolio may invest up to 20% of its assets in investment grade or non-investment grade (minimum rating of B) debt securities.
DWS RREEF Real Estate Securities VIP—seeks long-term capital appreciation and current income. Under normal circumstances, the portfolio invests at least 80% of its assets in equity securities (including preferred stocks and convertible securities) of real estate investment trusts (''REITs'') and real estate companies with the potential for price appreciation and a record of paying dividends. The Portfolio is non-diversified. When deemed prudent, the Portfolio may invest a portion of its assets in short-term securities, bonds, notes, equity securities of non-real estate companies and non-leveraged stock index contracts. Derivatives may only be used for hedging purposes.	
Janus Growth and Income Portfolio—seeks long-term capital growth and current income. The Portfolio normally invests in common stocks. It will normally invest up to 75% of its assets in equity securities selected for their growth potential and at least 25% of its assets in securities the portfolio manager believes have income potential. The Portfolio may invest significantly in foreign securities. The Portfolio will limit its investments in high-yield/high-risk bonds to less than 35% of its net assets. The Portfolio may also invest in the following securities: Indexed/structured securities; options; futures; swap agreements; participatory notes and other types of derivatives; short sales ''against the box''; and securities purchased on a when-issued, delayed delivery or forward commitment basis.	T. Rowe Price Large Cap Growth Portfolio—seeks long-term growth of capital and, secondarily, dividend income. Normally, the Portfolio invests at least 80% of its assets in the common stocks and other securities of large capitalization companies (i.e., those within the market capitalization range of the Russell 1000 Index). As of January 31, 2007, the market capitalization range of the Index was $1.19 billion to $448.33 billion. The investment adviser seeks companies that have the ability to pay increasing dividends through strong cash flow. The Portfolio may also purchase other securities, including foreign stocks, hybrid securities and futures and options, in keeping with the Portfolio's investment objective. Historically, the Portfolio has not invested in derivatives. The Portfolio may invest up to 30% of its assets in foreign securities, excluding American Depositary Receipts.

Existing Fund	Replacement Fund
DWS Janus Growth & Income VIP—seeks long term capital growth and current income. The Portfolio normally emphasizes investments in equity securities. It may invest up to 75% of its total assets in equity securities selected primarily for their growth potential and at least 25% of its total assets in securities the portfolio manager believes have income potential. The Portfolio may invest substantially all of its assets in equity securities if the portfolio manager believes that equity securities have the potential to appreciate in value. The Portfolio may invest without limit in foreign securities. The Portfolio is permitted, but not required, to use various types of derivatives in circumstances where the managers believe they offer an economical means of gaining exposure to a particular asset class or to keep cash on hand to meet shareholder redemptions or other needs while maintaining exposure to the market.	
Janus Balanced Portfolio—seeks long-term capital growth, consistent with preservation of capital and balanced by current income. The Portfolio normally invests 50–60% of its assets in equity securities of any market capitalization companies selected primarily for their growth potential, these include common stocks, preferred stocks, convertible securities, or other securities selected for their growth potential. The Portfolio also invests 40–50% of its assets in securities selected primarily for their income potential, which primarily will include fixed-income securities. The Portfolio normally invests at least 25% of its assets in fixed-income senior securities. The Portfolio will limit its investments in high-yield/high-risk bonds to less than 35% of its net assets. There are no limits on the countries in which the Portfolio may invest and the Portfolio may at times have significant foreign exposure. Other types of investments that the Portfolio may invest its assets in include: indexed/structured securities; options; futures; forwards; swap agreements; participatory notes; short sales ''against the box;'' and when issued, delayed delivery or forward commitment securities.	MFS Total Return Portfolio—seeks a favorable total return through an investment in a diversified portfolio. The Portfolio normally invests at least 40%, but not more than 75% of its net assets in common stocks and related securities such as preferred stocks, and bonds, warrants or rights convertible into stock. The Portfolio may also invest in depositary receipts for such equity securities. At least 25% of the Portfolio's net assets are normally invested in non-convertible fixed-income securities and up to 20% of its net assets may be in non-investment grade debt securities. However, historically, the Portfolio does not invest a significant portion of its assets in non-investment grade debt securities. The Portfolio may invest up to 20% of its net assets in foreign securities and may have exposure to foreign currencies through its investments in these securities. The Portfolio focuses on undervalued equity securities issued by companies with large market capitalizations ($5 billion or more).
DWS Small Cap Index VIP—seeks to replicate, as closely as possible, before deduction of expenses, the performance of the Russell 2000 Index. The Portfolio invests for capital appreciation, net income; any dividend and interest income is incidental to the pursuit of its objective. The Portfolio invests primarily in the securities included in the Russell 2000 Index and derivative instruments relating to the Index. The portfolio manager uses quantitative analysis techniques to structure the Portfolio to obtain a high correlation to the Russell 2000 Index. The Portfolio invests in a statistically selected sample of the securities found in the Index. The Portfolio seeks a correlation between the performance of the Portfolio, before expenses, and the Russell 2000 Index of 98% or better.	Russell 2000 Index Portfolio—seeks to equal the return of the Russell 2000 Index. The Portfolio invests its assets in a statistically selected sample of the 2000 stocks included in the Index. In addition to the securities of the type contained in the Index, the Portfolio also expects to invest in exchange traded funds and futures contracts based on the Russell 2000 Index and/or related options to simulate full investment in the Index while retaining liquidity, or to facilitate trading, reduce transaction costs or to seek higher return when these derivatives are more attractively priced than the underlying security. The investment adviser attempts to maintain a target correlation coefficient of at least 95% for the Portfolio.
DWS Bond VIP—seeks to maximize total return consistent with preservation of capital and prudent investment management by investing for both current income and capital appreciation. The Portfolio primarily invests in U.S. dollar-denominated investment grade fixed income securities, including corporate bonds, U.S. government and agency bonds and mortgage- and asset-backed securities. A significant portion of the Portfolio's assets may also be allocated among foreign investment grade fixed income securities, high yield bonds of U.S. and foreign issuers (including high yield bonds of issuers in countries with new or emerging securities markets), or, to maintain liquidity, in cash or money market instruments. The Portfolio normally invests at least 65% of total assets in high grade U.S. bonds (those considered to be in the top three grades of credit quality). The Portfolio may invest up to 25% of its total assets in foreign investment grade bonds (those considered to be in the top four grades of credit quality). In addition, the Portfolio may also invest up to 20% of total assets in securities of U.S. and foreign issuers that are below investment grade (rated as low as the sixth credit grade, i.e., grade B, including investments in U.S. dollar or foreign currency denominated bonds of issuers located in countries with new or emerging securities markets. In addition, the Portfolio is permitted, but not required, to use other various types of derivatives. Derivatives may be used for hedging and for risk management or for non-hedging purposes to seek to enhance potential gains.	BlackRock Bond Income Portfolio—seeks a competitive total return primarily from investing in fixed income securities. The Portfolio invests, under normal circumstances, at least 80% of its assets in fixed-income securities including investment grade fixed-income securities, U.S. government securities, mortgage-backed and asset-backed securities, corporate debt securities of U.S. and foreign issuers, and cash equivalents. The Portfolio may also invest in securities through Rule 144A and other private placement transactions. The Portfolio may invest up to 20% of its assets in high yield securities and up to 20% of its assets in foreign securities (including up to 10% in emerging markets). No more than 30% of the Portfolio's assets may be invested in a combination of high yield and foreign securities. In addition to bonds, the Portfolio's high yield securities may include convertible bonds, convertible preferred tocks, warrants or other securities attached to bonds or other fixed-income securities. The Portfolio may also use derivatives to attempt to reduce interest rate or occurring risks or to adjust the Portfolio's duration.

Existing Fund	Replacement Fund
DWS Core Fixed Income VIP—seeks high current income. The Portfolio invests for current income, not capital appreciation. Under normal circumstances, the Portfolio invests at least 80% of its assets, determined at the time of purchase, in fixed income securities. Fixed income securities include those of the U.S. Treasury, as well as U.S. government agencies and instrumentalities, corporate, mortgage-backed and asset-backed securities, taxable municipal and tax-exempt municipal bonds and liquid Rule 144A securities. The Portfolio invests primarily in investment-grade fixed income securities rated within the top three credit rating categories. The Portfolio may invest up to 20% of its total assets in investment-grade fixed income securities rated within the fourth highest credit rating category. The Portfolio may invest up to 25% of its total assets in U.S. dollar-denominated securities of foreign issuers. Although not one of its principal investment strategies, the Portfolio may invest in certain types of derivatives.	
DWS Mid Cap Growth VIP—seeks long-term capital growth. Under normal circumstances, the portfolio invests at least 80% of its net assets, determined at the time of purchase, in companies with market caps within the market capitalization range of the Russell Midcap Growth Index or securities with equity characteristics that provide exposure to those companies. It may also invest in convertible securities when it is more advantageous than investing in a company's common stock. The Portfolio may invest up to 20% of its assets in stocks and securities of companies based outside the U.S. The Portfolio may use derivatives in circumstances where the managers believe they offer an economical means of gaining exposure to a particular asset class or to help meet shareholder redemptions or other needs while maintaining exposure to the market.	T. Rowe Price Mid-Cap Growth Portfolio—seeks long-term growth of capital. Under normal circumstances, at least 80% of the Portfolio's assets are invested in a diversified portfolio of common stocks of mid cap companies whose earnings are expected to grow at a faster rate than the average company. Mid-cap companies are those whose market capitalization falls within the range of either the S&P MidCap 400 Index or the Russell Midcap Growth Index. While most of the Portfolio's assets will be invested in U.S. common stocks, the Portfolio may also purchase foreign stocks, options and futures. The Portfolio may also use derivatives as a non-principal investment strategy.
DWS Blue Chip VIP—seeks growth of capital and income. Under normal circumstances, the Portfolio invests at least 80% of net assets, in common stocks of large U.S. companies that are similar in size to the companies in the S&P 500 Index and that the portfolio managers consider to be ''blue chip'' companies. Blue chip companies are large, well-known companies that typically have an established earnings and dividends history, easy access to credit, solid positions in their industries and strong management. The Portfolio may invest up to 20% of its assets and foreign securities and is permitted, but not required to use various types of derivatives.	FI Value Leaders Portfolio—seeks long-term growth of capital. Normally, the Portfolio invests in common stocks of well known and established companies. The Portfolio may invest its assets in foreign securities and in futures contracts and exchange traded funds to increase or decrease exposure to changing security prices or other factors that affect security values. The Portfolio may invest in domestic and foreign companies without limit. Under normal market conditions, as a non-fundamental policy, the Portfolio will not purchase futures contracts or write put options if the Portfolio's total obligations would exceed 25% of its total assets, as a result of the settlement or exercise of these derivatives.
DWS High Income VIP—seeks to provide a high level of current income. Under normal circumstances, the Portfolio generally invests at least 65% of net assets in junk bonds, which are those rated below the fourth highest credit rating category (i.e., grade BB/Ba and below). The Portfolio may invest up to 50% of total assets in bonds denominated in U.S. dollars or foreign currencies from foreign issuers. Although not a principal investment strategy, the Portfolio is permitted, but not required to use various types of derivatives. In particular, the Portfolio may use futures, currency options and forward currency transactions.	BlackRock High Yield Portfolio—seeks to maximize total return consistent with income generation and prudent investment management. The Portfolio normally invests at least 80% of its assets in high yield bonds, including convertible and preferred securities. Portfolio may invest up to 10% of its assets in non-dollar denominated bonds of issuers located outside of the U.S. including issuers located in emerging markets. Portfolio may invest in a wide range of securities including corporate bonds, mezzanine investments, collateralized bond obligations, bank loans and mortgage-backed and asset-backed securities. Portfolio may invest in securities of any rating and may invest up to 10% of its assets in distressed securities that are in default or the issuers of which are in bankruptcy. Portfolio may also invest in derivatives and may use derivatives for leverage.
DWS Money Market VIP—seeks to maintain stability capital and, consistent therewith, to maintain the liquidity of capital and to provide current income. The Portfolio invests exclusively in high quality U. S. dollar denominated short-term securities paying a fixed, variable or floating interest rate and repurchase agreements. The Portfolio seeks to maintain a dollar-weighted average maturity of 90 days or less. The Portfolio may purchase debt obligations issued by U.S. and foreign banks, financial institutions, corporations or other entities, U.S. government securities, repurchase agreements and asset-backed securities.	BlackRock Money Market Portfolio—seeks a high level of current income consistent with preservation of capital. The Portfolio invests in the highest quality, short-term money market securities or in U. S. Government securities. The Portfolio may invest in commercial paper, asset-backed securities and in U.S. dollar-denominated securities issued by foreign companies or banks or their U.S. affiliates.

Existing Fund	Replacement Fund
DWS Small Cap Growth VIP—seeks maximum appreciation of investors' capital. Under normal circumstances, the Portfolio invests at least 80% of net assets in small capitalization stocks similar in size to those comprising the Russell 2000 Growth Index. The Portfolio intends to invest primarily in companies whose market capitalizations fall within the normal range of the Index. The investment adviser looks for companies believed to have the potential for sustainable above-average growth and whose market value appears reasonable in light of their business prospects. While the Portfolio invests mainly in U.S. stocks, it could invest up to 25% of total assets in foreign securities. The Portfolio is permitted, but no required, to use various types of derivatives. In particular, the Portfolio may use futures and options, including sales of covered put and call options.	T. Rowe Price Small Cap Growth Portfolio—seeks long-term capital growth. Under normal market conditions, invests at least 80% of the Portfolio's net assets in a diversified group of small capitalization companies, within the range of or smaller than the market capitalization of the smallest 100 companies in the S&P 500 Index. The Portfolio will be very broadly diversified and the top 25 holdings will not constitute a large portion of assets. This broad diversification should minimize the effects of individual security selection on Portfolio performance. While most assets will be invested in U.S. common stocks, other securities may also be purchased for the Portfolio, including foreign stocks, futures and options, in keeping with its objective. The Portfolio may use derivatives to ''hedge'' or protect its assets from an unfavorable shift in securities prices or interest rates, to maintain exposure to the broad equity markets or to enhance return. The Portfolio may also use derivatives to attempt to avoid the risk of an unfavorable shift in currency rates.
DWS Strategic Income VIP—seeks a high current return. The Portfolio invests mainly in bonds issued by U.S. and foreign corporations and governments. The credit quality of the Portfolio's investments may vary; the Portfolio may invest up to 100% of total assets in either investment-grade bonds or in junk bonds, which are those below the fourth highest credit rating category (i.e., grade BB/Ba and below). The Portfolio may invest up to 50% of total assets in foreign bonds. The Portfolio may also invest in emerging markets securities and dividend-paying common stocks. Part of the Portfolio's current investment strategy involves the use of various types of derivatives. In particular, the Portfolio may use futures, currency options and forward currency transactions.	Pioneer Strategic Income Portfolio—seeks a high level of current income. Under normal market conditions, invests at least 80% of its net assets in debt securities. The Portfolio has the flexibility to invest in a broad range of issuers and segments of the debt securities market including investment grade and below investment grade securities of U.S. and non-U.S. issuers. Up to 70% of the Portfolio's total assets may be in junk bonds. Up to 20% of the Portfolio's total assets may be invested in debt securities rated below CCC by Standard & Poor's Corp. Up to 85% of the Portfolio's total assets may be invested in emerging markets. The Portfolio may invest up to 20% of its assets in all types of equity securities. Although not a principal investment strategy, the Portfolio may invest in various types of derivatives.
DWS Dreman High Return Equity VIP—seeks to achieve a high rate of total return. Under normal circumstances, the Portfolio invests at least 80% of net assets in common stocks and other equity securities. The Portfolio focuses on stocks of large U.S. companies that are similar in size to the companies in the S&P 500 Index and that the Portfolio managers believe are undervalued. The Portfolio intends to invest primarily in companies whose market capitalizations fall within the normal range of the Index. Although the Portfolio can invest in stocks of any economic sector, at times it may emphasize the financial services sector or other sectors (in fact, it may invest more than 25% of total assets in a single sector). The Portfolio may invest up to 20% of net assets in U.S. dollar-denominated American Depository Receipts and in securities of foreign companies traded principally in securities markets outside the U.S.	BlackRock Large Cap Value Portfolio—seeks long-term growth of capital. Under normal market conditions, invests at least 80% of the Portfolio's net assets in a portfolio of large capitalization companies, which may include common and preferred stocks. BlackRock considers large capitalization companies to be those with market capitalizations within the capitalization range of companies included in the Russell 1000 Value Index, which is composed of value stocks in the Russell 1000 Index. The Portfolio may invest up to 20% of its assets in smaller capitalization stocks. The Portfolio may also invest in foreign securities without limit.
DWS Davis Venture Value VIP—The Portfolio seeks growth of capital. The Portfolio invests primarily in common stock of U.S. companies with market capitalizations of at least $5 billion. The Portfolio may also invest in foreign companies and U.S. companies with smaller market capitalizations. The Portfolio is permitted, but not required, to use various types of derivatives. The Portfolio does not concentrate in any industry but may have exposure to a given industry or sector. The manager of the Portfolio also manages the Replacement Fund.	Davis Venture Value Portfolio—The Portfolio seeks growth of capital. The Portfolio invests, under normal circumstances, the majority of the Portfolio's assets primarily in equity securities of companies with market capitalizations of at least $10 billion. The Portfolio typically invests a significant portion of its assets in the financial services sector. The Portfolio may also invest a limited portion of its assets in foreign securities, including American Depositary Receipts, in companies of any size, and in companies whose shares may be subject to controversy.
DWS Turner Mid Cap Growth VIP—seeks capital appreciation. The Portfolio pursues its objective by investing in common stocks and other equity securities of U.S. companies with medium market capitalizations that the portfolio managers believe have strong earnings growth potential. Under normal circumstances, at least 80% of the Portfolio's net assets will be invested in stocks of mid-cap companies, which are defined for this purpose as companies with market capitalizations at the time of purchase in the range of market capitalizations of those companies included in the Russell Midcap Growth Index. The Portfolio will invest in securities of companies that are diversified across economic sectors, and will attempt to maintain sector concentrations that approximate those of the Index. The manager of the Portfolio also manages the Replacement Fund.	Turner Mid-Cap Growth Portfolio—seeks capital appreciation. The Portfolio invests at least 80% of its net assets in common stocks and other equity securities of U.S. companies with median market capitalization that the Portfolio's adviser believes have strong earnings growth potential. Median market capitalization companies are defined for this purpose as companies with market capitalization at the time of purchase in the range of market capitalizations of companies included in the Russell Midcap Growth Index. The Portfolio will invest in securities of companies that are diversified across economic sectors, and will attempt to maintain sector concentrations that approximate those of the Index.

Existing Fund	Replacement Fund
DWS Large Cap Value VIP—seeks to achieve a high rate of total return. Under normal circumstances, the Portfolio invests at least 80% of net assets in common stocks and other equity securities, of large U.S. companies that are similar in size to the companies in the Russell 1000 Value Index and that the portfolio managers believe are undervalued. The Portfolio intends to invest primarily in companies whose market capitalizations fall within the normal range of the Index. Although the Portfolio can invest in stocks of any economic sector (which is comprised of two or more industries), at times it may emphasize the financial services sector or other sectors. In fact, it may invest more than 25% of total assets in a single sector. The Portfolio may invest up to 20% of its assets in foreign securities and is permitted, but not required to use various types of derivatives.	MFS Value Portfolio—seeks capital appreciation and reasonable income. The Portfolio normally invests at least 65% of its net assets in equity securities of companies that the adviser believes are undervalued in the market relative to their long term potential. While the Portfolio may invest in companies of any size, the Portfolio generally focuses on undervalued companies with large market capitalizations. The Portfolio may invest up to 35% of its assets in foreign securities.

12. The management fees, 12b–1 fees (if applicable), other expenses and total operating expenses for each Existing and Replacement Fund are as follows:

	Management fees (percent)	Distribution (12b–1) fees (percent)	Other expenses (percent)	Total annual expenses (percent)	Expense waivers (percent)	Net annual expenses (percent)
Replacement Fund:						
• MetLife Stock Index Portfolio, Class A	0.25	N/A	0.05	0.30	0.01	0.29
• MetLife Stock Index Portfolio, Class B	0.25	0.25 (0.50)*	0.05	0.55	(0.01)	0.54
Existing Funds:						
• Dreyfus Stock Index Fund, Initial Class	0.245	N/A	0.02	0.265	N/A	0.265
• DWS Equity 500 Index VIP, Class B2	0.19	0.25	0.23	0.67	(0.04)	0.63
Replacement Fund:						
• BlackRock Diversified Portfolio, Class A	0.44	N/A	0.07	0.51	N/A	0.51
• BlackRock Diversified Portfolio, Class B	0.44	0.25 (0.50)*	0.07	0.76	N/A	0.76
Existing Funds:						
• VIP Asset Manager Portfolio, Initial Class	0.52	N/A	0.13	0.65	N/A	0.65
• DWS Balanced VIP, Class B	0.46	0.25	0.22	0.93	(0.04)	0.89
Replacement Fund:						
• Lord Abbett Mid-Cap Value Portfolio, Class B	0.68	0.25 (0.50)*	0.07	1.00	N/A	1.00
Existing Funds:						
• Lord Abbett Series Fund Mid-Cap Value Portfolio, Class VC	0.74	N/A	0.38	1.12	N/A	1.12
Replacement Fund:						
• Lord Abbett Growth and Income Portfolio, Class B	0.50	0.25 (0.50)*	0.03	0.78	N/A	0.78
Existing Funds:						
• Lord Abbett Series Fund Growth and Income Portfolio, Class VC	0.48	N/A	0.39	0.87	N/A	0.87
• DWS Growth & Income Portfolio, Class B	0.48	0.25	0.17	0.90	(0.03)	0.87
Replacement Fund:						
• Oppenheimer Global Equity Portfolio, Class A	0.53	N/A	0.09	0.62	N/A	0.62
Existing Fund:						
• Global Value Equity Portfolio, Class I	0.67	N/A	0.38	1.05	N/A	1.05
Replacement Fund:						
• Neuberger Berman Mid Cap Value Portfolio, Class A	0.65	N/A	0.06	0.71	N/A	0.71
Existing Fund:						
• U.S. Mid-Cap Value Portfolio, Class I	0.72	N/A	0.29	1.01	N/A	1.01
Replacement Fund:						
• Third Avenue Small Cap Value Portfolio, Class B	0.74	0.25 (0.50)*	0.04	1.03	N/A	1.03
Existing Funds:						
• Putnam VT Small Cap Value Fund, Class 1B	0.76	0.25	0.09	1.10	N/A	1.10
• Lazard Retirement Small Cap Portfolio, Class B	0.75	0.25	0.18	1.18	N/A	1.18
Replacement Fund:						
• Loomis Sayles Global Markets Portfolio, Class A	0.70	N/A	0.12	0.82	N/A	0.82
• Loomis Sayles Global Markets Portfolio, Class B	0.70	0.25 (0.50)*	0.15	1.10	N/A	1.10
Existing Fund:						
• Templeton Global Asset Allocation Fund, Class 1	0.63	N/A	0.23	0.86	0.01	0.85
• Templeton Global Asset Allocation Fund, Class 2	0.63	0.25	0.23	1.11	0.01	1.10
Replacement Fund:						
• MFS Research International Portfolio, Class B	0.72	0.25 (0.50)*	0.14	1.11	N/A	1.11
Existing Funds:						
• Putnam VT International Equity Fund, Class IB	0.74	0.25	0.19	1.18	N/A	1.18
• DWS International VIP, Class B	0.84	0.25	0.27	1.36	(0.02)	1.34
• DWS International Select Equity VIP, Class B	0.75	0.25	0.26	1.26	N/A	1.26
Replacement Fund:						
• MFS Emerging Markets Equity Portfolio, Class A	1.04	N/A	0.29	1.33	0.03	1.30
Existing Funds:						

	Management fees (percent)	Distribution (12b–1) fees (percent)	Other expenses (percent)	Total annual expenses (percent)	Expense waivers (percent)	Net annual expenses (percent)
• Credit Suisse Emerging Markets Portfolio	1.24	N/A	0.35	1.59	0.23	1.36
• Emerging Markets Equity Portfolio, Class 1	1.23	N/A	0.40	1.63	0.01	1.62
Replacement Fund:						
• Met/AIM Capital Appreciation Portfolio, Class A	0.77	N/A	0.09	0.86	0.02	0.84
• Met/AIM Capital Appreciation Portfolio, Class E	0.77	0.15 (0.25)*	0.09	1.01	0.02	0.99
Existing Fund:						
• AIM V.I. Capital Appreciation Fund, Series I	0.61	N/A	0.30	0.91	N/A	0.91
• AIM V.I. Capital Appreciation Fund, Series II	0.61	0.25	0.30	1.16	N/A	1.16
Replacement Fund:						
• Capital Guardian U.S. Equity Portfolio, Class A	0.66	N/A	0.06	0.72	N/A	0.72
Existing Fund:						
• AIM V.I. Core Equity Fund, Series 1	0.61	N/A	0.30	0.91	N/A	0.91
• AIM V.I. Core Equity Fund, Series II	0.61	0.25	0.30	1.16	N/A	1.16
Replacement Fund:						
• PIMCO Inflation Protected Bond Portfolio, Class A	0.50	N/A	0.05	0.55	N/A	0.55
Existing Fund:						
• PIMCO Real Return Portfolio, Administrative Class	0.25	0.15	0.25	0.65	N/A	0.65
Replacement Fund:						
• Neuberger Berman Real Estate Portfolio, Class A	0.64	N/A	0.04	0.68	N/A	0.68
• Neuberger Berman Real Estate Portfolio, Class B	0.64	0.25 (0.50)*	0.04	0.93	N/A	0.93
Existing Funds:						
• Delaware VIP REIT Series, Standard	0.73	N/A	0.10	0.83	N/A	0.83
• DWS RREEF Real Estate Securities VIP, Class B	1.00	0.25	0.43	1.68	(0.26)	1.42
Replacement Fund:						
• Capital Guardian U.S. Equity, Class B	0.66	0.25 (0.50)*	0.06	0.97	N/A	0.97
Existing Funds:						
• MFS Investors Trust Series, Service Class	0.75	0.25	0.11	1.11	N/A	1.11
• AIM V.I. Core Equity Fund, Series 1	0.61	N/A	0.30	0.91	N/A	0.91
• AIM V.I. Core Equity Fund, Series II	0.61	0.25	0.30	1.16	N/A	1.16
Replacement Fund:						
• T. Rowe Price Large Cap Growth Portfolio, Class A	0.60	N/A	0.08	0.68	(0.02)	0.66
• T. Rowe Price Large Cap Growth Portfolio, Class B	0.60	0.25 (0.50)*	0.08	0.93	(0.02)	0.91
Existing Funds:						
• Janus Growth and Income Portfolio, Institutional	0.62	N/A	0.25	0.87	N/A	0.87
• DWS Janus Growth & Income VIP, Class B	0.75	0.25	0.24	1.24	N/A	1.24
Replacement Fund:						
• MFS Total Return Portfolio, Class A	0.53	N/A	0.05	0.58	N/A	0.58
Existing Fund:						
• Janus Balanced Portfolio, Institutional	0.55	N/A	0.03	0.58	N/A	0.58
Replacement Fund:						
• Russell 2000 Index Portfolio, Class A	0.25	N/A	0.11	0.36	(0.01)	0.35
Existing Fund:						
• DWS Small Cap Index VIP, Class A	0.45	N/A	0.05	0.50	(0.02)	0.48
Replacement Fund:						
• BlackRock Bond Income Portfolio, Class B	0.39	0.25 (0.50)*	0.07	0.71	(0.01)	0.70
Existing Funds:						
• DWS Bond VIP, Class B	0.49	0.25	0.30	1.04	(0.01)	1.03
• DWS Core Fixed Income VIP, Class B	0.59	0.25	0.22	1.06	N/A	1.06
Replacement Fund:						
• T. Rowe Price Mid-Cap Growth Portfolio, Class B	0.75	0.25 (0.50)*	0.03	1.03	(0.01)	1.02
Existing Fund:						
• DWS Mid Cap Growth VIP, Class B	0.75	0.25	0.42	1.42	(0.08)	1.34
Replacement Fund:						
• FI Value Leaders Portfolio, Class B	0.64	0.25 (0.50)*	0.07	0.96	N/A	0.96
Existing Fund:						
• DWS Blue Chip VIP, Class B	0.64	0.25	0.19	1.08	N/A	1.08
Replacement Fund:						
• BlackRock High Yield Portfolio, Class B	0.60	0.25 (0.50)*	0.32	1.17	N/A	1.17
Existing Fund:						
• DWS High Income VIP, Class B	0.59	0.25	0.26	1.10	N/A	1.10
Replacement Fund:						
• BlackRock Money Market Portfolio, Class B	0.34	0.25 (0.50)*	0.04	0.63	(0.01)	0.62
Existing Fund:						
• DWS Money Market VIP, Class B	0.39	0.25	0.17	0.81	N/A	0.81
Replacement Fund:						
• T. Rowe Price Small Cap Growth Portfolio, Class A	0.51	N/A	0.07	0.58	(0.01)	0.57
• T. Rowe Price Small Cap Growth Portfolio, Class B	0.51	0.25 (0.50)*	0.07	0.83	(0.01)	0.82
Existing Fund:						
• DWS Small Cap Growth VIP, Class A	0.65	N/A	0.08	0.73	(0.01)	0.72
• DWS Small Cap Growth VIP, Class B	0.65	0.25	0.22	1.12	(0.03)	1.09
Replacement Fund:						

	Management fees (percent)	Distribution (12b–1) fees (percent)	Other expenses (percent)	Total annual expenses (percent)	Expense waivers (percent)	Net annual expenses (percent)
• Pioneer Strategic Income Portfolio, Class E	0.70	0.15 (0.25)*	0.12	0.97	N/A	0.97
Existing Fund:						
• DWS Strategic Income VIP, Class B	0.65	0.25	0.34	1.24	N/A	1.24
Replacement Fund:						
• BlackRock Large Cap Value Portfolio, Class B	0.70	0.25 (0.50)*	0.11	1.06	N/A	1.06
Existing Fund:						
• DWS Dreman High Return Equity VIP, Class B	0.73	0.25	0.13	1.11	N/A	1.11
Replacement Fund:						
• Davis Venture Value Portfolio, Class B	0.71	0.25 (0.50)*	0.04	1.00	N/A	1.00
Existing Fund:						
• DWS Davis Venture Value VIP, Class B	0.94	0.25	0.21	1.40	(0.14)	1.26
Replacement Fund:						
• Turner Mid-Cap Growth Portfolio, Class B	0.80	0.25 (0.50)*	0.08	1.13	N/A	1.13
Existing Fund:						
• DWS Turner Mid Cap Growth VIP, Class B	0.80	0.25	0.32	1.37	N/A	1.37
Replacement Fund:						
• MFS Value Portfolio, Class E	0.73	0.15 (0.25)*	0.23	1.11	N/A	1.11
Existing Fund:						
• DWS Large Cap Value VIP, Class B	0.74	0.25	0.21	1.20	N/A	1.20

*Trustees can increase 12b–1 fee to this amount without stockholder approval.

13. MetLife Advisers, LLC or Met Investors Advisory, LLC is the adviser of each of the Replacement Funds. Each Replacement Fund currently offers up to five classes of shares, three of which, Class A, Class B and Class E are involved in the substitutions. No Rule 12b–1 Plan has been adopted for any Replacement Fund's Class A shares. Each Replacement Fund's Class B shares and Class E shares have adopted a Rule 12b–1 distribution plan whereby up to 0.50% and 0.25% of a Fund's assets attributable to its Class B shares and Class E shares, respectively, may be used to finance the distribution of the Fund's shares. Currently, payments under the plan are limited to 0.25% for Class B shares and 0.15% for Class E shares. The Boards of Trustees/Directors of each of MIST and Met Series Fund may increase payments under its plans to the full amount without shareholder approval.

14. Met Investors Advisory, LLC has entered into an agreement with MIST whereby, for the period ended April 30, 2008, and any subsequent year in which the agreement is in effect, the total annual operating expenses of the following Replacement Funds (excluding interest, taxes, brokerage commissions and Rule 12b–1 fees) will not exceed the amounts stated. These expense caps may be extended by the investment adviser from year to year:

Third Avenue Small Cap Value Portfolio: 0.95%
Neuberger Berman Real Estate Portfolio: 0.90%
MFS Research International Portfolio: 1.00%
T. Rowe Price Mid-Cap Growth Portfolio: 0.90%
BlackRock High Yield Portfolio: 0.95%
Pioneer Strategic Income Portfolio: 1.25%
Turner Mid Cap Growth Portfolio: 0.95%
Loomis Sayles Global Markets Portfolio: 0.90%
MFS Emerging Markets Equity Portfolio: 1.30%
PIMCO Inflation Protected Bond Portfolio: 0.65%
MFS Value Portfolio: 1.00%
Met/Aim Capital Appreciation Portfolio: 1.25%

15. There is no expense limitation agreement or contractual waiver agreement with respect to Lord Abbett Growth and Income Portfolio, Lord Abbett Mid-Cap Value Portfolio, MFS Total Return Portfolio, Oppenheimer Global Equity Portfolio, BlackRock Bond Income Portfolio, FI Value Leaders Portfolio, T. Rowe Price Small Cap Growth Portfolio, BlackRock Diversified Portfolio, BlackRock Large Cap Value Portfolio, Davis Venture Value Portfolio, Neuberger Berman Mid Cap Portfolio, or Capital Guardian U.S. Equity Portfolio.

16. The Applicants believe the substitutions will provide significant benefits to Contract owners, including improved selection of portfolio managers and simplification of fund offerings through the elimination of overlapping offerings. Based on generally better performance records and generally lower total expenses of the Replacement Funds, the Substitution Applicants believe that the sub-advisers to the Replacement Funds overall are better positioned to provide consistent above-average performance for their Funds than are the advisers or sub-advisers of the Existing Funds. At the same time, Contract owners will continue to be able to select among a large number of funds, with a full range of investment objectives, investment strategies, and managers. As a result of the substitutions, the number of investment options under each Contract will not materially decrease. With respect to Contracts with thirty-one or less current investment options, such number of investment options will not change as a result of the substitutions.

17. Applicants argue that many of the Existing Funds are smaller than their respective Replacement Funds. As a result, various costs such as legal, accounting, printing and trustee fees are spread over a larger base with each Contract owner bearing a smaller portion of the cost than would be the case if the Replacement Fund were smaller in size.

18. Those substitutions which replace outside funds with funds for which either Met Investors Advisory, LLC or MetLife Advisers, LLC acts as investment adviser will permit each adviser, under the Multi-Manager Order [IC–22824 (1997) and IC–23859 (1999)], to hire, monitor and replace sub-advisers as necessary to seek optimal performance.

19. Contract owners with sub-account balances invested in shares of the Replacement Funds will, except as follows, have the same or lower total expense ratios taking into account fund expenses (including Rule 12b–1 fees, if any) and current fee waivers. In the following substitutions, the total operating expense ratios of the Replacement Funds are higher: Dreyfus Stock Index Fund/MetLife Stock Index Portfolio—total expenses of Class A

shares are 0.02% higher than those of Dreyfus Stock Index Fund; and DWS High Income VIP/BlackRock High Yield Portfolio—total expenses of Class B shares are 0.07% higher than those of DWS High Income VIP Equity Fund.

20. In the following substitutions, the management fee and applicable Rule 12b-1 fee, if any, of the Replacement Fund are higher than those of the respective Existing Fund: Dreyfus Stock Index Fund/MetLife Stock Index Portfolio—management fee is .005% higher; Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio—management fee and 12b–1 fee are 0.19% higher; Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio—management fee and 12b–1 fee are 0.27% higher; Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio—management fee is 0.07% higher; AIM V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio—management fee and 12b–1 fee for Class A and Class E shares of Met/AIM Capital Appreciation Portfolio are 0.16% and 0.06% higher, respectively, than those of Series I and II shares of AIM V.I. Capital Appreciation Fund; AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio—management fee for Class A and Class B shares is 0.05% higher than those of Series I and Series II shares of AIM V.I. Core Equity Fund; PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio—management fee and 12b–1 fee are 0.10% higher; DWS Equity 500 Index VIP/MetLife Stock Index Portfolio—management fee is 0.06% higher; DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio—management fee is 0.02% higher; and DWS High Income VIP/BlackRock High Yield Portfolio—management fee is 0.01% higher.

21. In the following substitutions, at certain management fee breakpoints, the management fee of the Replacement Fund may be higher than the management fee of the Existing Fund: Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio. A description of the comparative management fees of the Replacement and Existing Funds, at all breakpoints, is set forth in the application.

22. The Substitution Applicants propose to limit Contract charges attributable to Contract value invested in the Replacement Funds following the proposed substitutions to a rate that would offset the difference in the expense ratio between each Existing Fund's net expense ratio and the net expense ratio for the respective Replacement Fund.

23. Except for 2 of the 39 funds involved in the substitutions, the substitutions will result in the same or decreased net expense ratios (ranging from 3 basis points to 46 basis points). Moreover, there will be no increase in Contract fees and expenses, including mortality and expense risk fees and administration and distribution fees charged to the Separate Accounts as a result of the substitutions. The Substitution Applicants believe that the Replacement Funds have investment objectives, policies and risk profiles that are either substantially the same as, or sufficiently similar to, the corresponding Existing Funds to make those Replacement Funds appropriate candidates as substitutes.

24. As a result of the substitutions, neither Met Investors Advisory, LLC, MetLife Advisers, LLC nor any of their affiliates will receive increased amounts of compensation from the charges to the Separate Accounts related to the Contracts or from Rule 12b–1 fees or revenue sharing currently received from the investment advisers or distributors of the Existing Funds.

25. The share classes of the Existing Funds and the Replacement Funds are identical with respect to the imposition of Rule 12b–1 fees currently imposed except as follows: Lord Abbett Series Fund Mid-Cap Value Portfolio—Class VC—0%/Lord Abbett Mid-Cap Value Portfolio—Class B—0.25%; Lord Abbett Series Fund Growth and Income Portfolio—Class VC—0%/Lord Abbett Growth and Income Portfolio—Class B—0.25%; AIM V.I. Capital Appreciation Fund/Met—Series II Shares—0.25%/AIM Capital Appreciation Portfolio—Class E—0.15%; PIMCO Real Return Portfolio—Administrative Class—0.15%/PIMCO Inflation Protected Bond Portfolio—Class A—0%; DWS Strategic Income VIP—Class B—0.25%/Pioneer Strategic Income Portfolio—Class E—0.15%; and DWS Large Cap Value VIP—Class B—0.25%/MFS Value Portfolio—Class E—0.15%.

26. While each Replacement Fund's Class B and Class E Rule 12b–1 fees can be raised to 0.50% and 0.25%, respectively, of net assets by the Replacement Fund's Board of Trustees/Directors without shareholder approval, the 0.25% Rule 12b–1 fees of the Existing Funds' shares cannot be raised by the Existing Fund's Board of Trustees/Directors, without shareholder approval.

27. The distributors of the Existing Funds pay to the Insurance Companies, or their affiliates, any 12b–1 fees associated with the class of shares sold to the Separate Accounts. Similarly, the distributors for MIST and Met Series Fund will receive from the applicable class of shares held by the Separate Accounts Rule 12b–1 fees in the same amount or a lesser amount than the amount paid by the Existing Funds.

28. Met Series Fund and MIST represent that Rule 12b–1 fees of Class B and Class E shares of the Replacement Funds will not be raised above the current rate without approval of a majority in interest of the respective Replacement Funds' shareholders.

29. In addition to any Rule 12b–1 fees, the investment advisers or distributors of the Existing Funds pay the Insurance Companies or one of their affiliates from 10 to 38 basis points for Class A or Class B shares (or their equivalent). Following the substitutions, these payments will not be made on behalf of the Existing Funds. Rather, 25 basis points in Rule 12b–1 fees from the Replacement Funds (with respect to Class B shares), 15 basis points in 12b–1 fees from the Replacement Funds (with respect to Class E shares) and profit distributions to members from the Replacement Funds' advisers, will be available to the Insurance Companies. These profits from investment advisory fees may be more or less than the fees being paid by the Existing Funds.

Applicants' Legal Analysis and Conditions

1. The Substitution Applicants request that the Commission issue an order pursuant to Section 26(c) of the Act approving the proposed substitutions. Section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting the securities held by the trust.

2. Applicants submit that the proposed substitutions appear to involve substitutions of securities within the meaning of Section 26(c) of the Act. The Substitution Applicants, therefore, request an order from the Commission pursuant to Section 26(c) approving the proposed substitutions.

3. Applicants represent that the Contracts reserve to the applicable Insurance Company the right, subject to compliance with applicable law, to

substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. The prospectuses for the Contracts and the Separate Accounts contain appropriate disclosure of this right.

4. By a supplement to the prospectuses for the Contracts and the Separate Accounts, each Insurance Company will notify all owners of the Contracts of its intention to take the necessary actions, including seeking the order requested by this Application, to substitute shares of the funds as described herein. The supplement will advise Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make one transfer of Contract value (or annuity unit exchange) out of the Existing Fund sub-account to one or more other sub-accounts without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited numbers of transfers (or exchanges) permitted without a transfer charge. The supplement also will inform Contract owners that the Insurance Company will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The supplement will also advise Contract owners that for at least 30 days following the proposed substitutions, the Insurance Companies will permit Contract owners affected by the substitutions to make one transfer of Contract value (or annuity unit exchange) out of the Replacement Fund sub-account to one or more other sub-accounts without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without a transfer charge.

5. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's Contract value, cash value, or death benefit or in the dollar value of his or her investment in the Separate Accounts.

6. The process for accomplishing the transfer of assets from each Existing Fund to its corresponding Replacement Fund will be determined on a case-by-case basis. In most cases, it is expected that the substitutions will be effected by redeeming shares of an Existing Fund for cash and using the cash to purchase shares of the Replacement Fund. In certain other cases, it is expected that the substitutions will be effected by redeeming the shares of an Existing Fund in-kind; those assets will then be contributed in-kind to the corresponding Replacement Fund to purchase shares of that Fund.

7. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or an Insurance Company's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including brokerage, legal, accounting, and other fees and expenses, will be paid by the Insurance Companies. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions. No fees will be charged on the transfers made at the time of the proposed substitutions because the proposed substitutions will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year.

8. In addition to the prospectus supplements distributed to owners of Contracts, within five business days after the proposed substitutions are completed, Contract owners will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of all Contract value or cash value under a Contract invested in any one of the sub-accounts on the date of the notice to one or more other sub-accounts available under their Contract at no cost and without regard to the usual limit on the frequency of transfers from the variable account options to the fixed account options. The notice will also reiterate that (other than with respect to ''market timing'' activity) the Insurance Company will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers or to impose any charges on transfers until at least 30 days after the proposed substitutions. The Insurance Companies will also send each Contract owner current prospectuses for the Replacement Funds involved to the extent that they have not previously received a copy.

9. Each Insurance Company also is seeking approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

10. The Substitution Applicants represent that for those who were Contract owners on the date of the proposed substitutions, the Insurance Companies will reimburse, on the last business day of each fiscal period (not to exceed a fiscal quarter) during the twenty-four months following the date of the proposed substitutions, those Contract owners whose subaccount invests in the Replacement Fund such that the sum of the Replacement Fund's operating expenses (taking into account fee waivers and expense reimbursements) and subaccount expenses (asset-based fees and charges deducted on a daily basis from subaccount assets and reflected in the calculation of subaccount unit values) for such period will not exceed, on an annualized basis, the sum of the Existing Fund's operating expenses (taking into account fee waivers and expense reimbursements) and subaccount expenses for fiscal year 2006, except with respect to the Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio.

11. With respect to the Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/

MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, the Substitution Applicants represent that the reimbursement agreement with respect to the Replacement Fund's operating expenses and subaccount expenses, will extend for the life of each Contract outstanding on the date of the proposed substitutions.

12. The Substitution Applicants further agree that, except with respect to the Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, the Insurance Companies will not increase total separate account charges (net of any reimbursements or waivers) for any existing owner of the Contracts on the date of the substitutions for a period of two years from the date of the substitutions. With respect to the Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, the agreement not to increase the separate account charges will extend for the life of each Contract outstanding on the date of the proposed substitutions.

13. Except with respect to the Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, the Replacement Fund will have the same or lower management fee and, if applicable, Rule 12b–1 fee compared to the Existing Fund. In the case of Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, for affected Contract owners, the Replacement Fund's net expenses will not, for the life of the Contracts, exceed the 2006 net expenses of the Existing Fund. In addition, Contract owners with balances invested in the Replacement Fund will have, taking into effect any applicable expense waivers, a lower expense ratio in many cases and, for the others, a similar expense ratio. However, the Substitution Applicants agree that, except with respect to the Lord Abbett Series Fund Mid-Cap Value Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, the Insurance Companies will not increase total separate account charges (net of any reimbursements or waivers) for any existing owner of the Contracts on the date of the substitutions for a period of two years from the date of the substitutions. With respect to the Lord Abbett Series Fund Mid-Cap Value

Portfolio/Lord Abbett Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio/Lord Abbett Growth and Income Portfolio, Templeton Global Asset Allocation Fund/Loomis Sayles Global Markets Portfolio, Aim V.I. Capital Appreciation Fund/Met/AIM Capital Appreciation Portfolio, AIM V.I. Core Equity Fund/ Capital Guardian U.S. Equity Portfolio, PIMCO Real Return Portfolio/PIMCO Inflation Protected Bond Portfolio, DWS Growth & Income VIP/Lord Abbett Growth and Income Portfolio, Dreyfus Stock Index Fund/MetLife Stock Index Portfolio, DWS Equity 500 Index VIP/ MetLife Stock Index Portfolio, DWS High Income VIP/BlackRock High Yield Portfolio, Putnam VT Small Cap Value Fund/Third Avenue Small Cap Value Portfolio, Putnam VT International Equity Fund/MFS Research International Portfolio, DWS Mid Cap Growth VIP/T. Rowe Price Mid-Cap Growth Portfolio, DWS Blue Chip VIP/ FI Value Leaders Portfolio, and DWS Strategic Income VIP/Pioneer Strategic Income Portfolio substitutions, the agreement not to increase that separate account charges will extend for the life of each Contract outstanding on the date of the proposed substitutions.

14. Applicants state that the proposed Replacement Fund for each Existing Fund has an investment objective that is at least substantially similar to that of the Existing Fund. Moreover, the principal investment policies of the Replacement Funds are similar to those of the corresponding Existing Funds. In addition, the following Existing Funds are not being offered for new sales, but only are available as investment options under Contracts previously or currently offered by the Insurance Companies or, if available, are available only for additional contributions and/or transfers from other investment options under Contracts not currently offered: Lord Abbett Series Fund Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio, Delaware VIP REIT Series, Global Value Equity Portfolio, U.S. Mid-Cap Value Portfolio, Emerging Markets Equity Portfolio, DWS Equity 500 Index VIP, DWS RREEF Real Estate Securities VIP, DWS Bond VIP, DWS International VIP, DWS Mid Cap Growth VIP, DWS Money Market VIP, DWS Small Cap Growth VIP, DWS Strategic Income VIP, DWS Balanced VIP, DWS Dreman High Return Equity VIP, DWS Davis Venture Value VIP, DWS Janus Growth & Income VIP, DWS Turner Mid Cap Growth VIP and DWS Large Cap Value VIP.

15. The Substitution Applicants submit there is little likelihood that significant additional assets, if any, will be allocated to the Existing Funds and, therefore, because of the cost of maintaining such Funds as investment options under the Contracts, it is in the interest of shareholders to substitute the applicable Replacement Funds which are currently being offered as investment options by the Insurance Companies.

16. In each case, the applicable Insurance Companies believe that it is in the best interests of the Contract owners to substitute the Replacement Fund for the Existing Fund. The Insurance Companies believe that the new sub-adviser will, over the long term, be positioned to provide at least comparable performance to that of the Existing Fund's sub-adviser.

17. The Substitution Applicants believe that most of the assets of the Existing Funds belong to owners of variable annuity and variable life insurance contracts issued by insurance companies unaffiliated with MetLife. As such, Contract owners and future owners of contracts issued by affiliated insurance companies of MetLife cannot expect to command a majority voting position in any of the Existing Funds in the event that they, as a group, desire that an Existing Fund move in a direction different from that generally desired by owners of non-MetLife affiliated contracts.

18. In addition to the foregoing, the Substitution Applicants submit that in every proposed substitution except for those substitutions where expense offsets will be applied to Contract owners at the separate account level, the management fee and current 12b–1 fee of the Replacement Funds as well as the management fee and maximum 12b–1 fee, will be the same as, or lower than, those of the Existing Funds. Total operating expenses of the Replacement Funds will be similar to, or lower than those of the Existing Funds.

19. The Substitution Applicants anticipate that Contract owners will be better off with the array of sub-accounts offered after the proposed substitutions than they have been with the array of sub-accounts offered prior to the substitutions. The proposed substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer Contract values and cash values between and among approximately the same number of sub-accounts as they could before the proposed substitutions.

20. Applicants believe none of the proposed substitutions is of the type that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract or cash values into other sub-accounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected sub-accounts into any of the remaining sub-accounts without cost or other disadvantage. The proposed substitutions, therefore, will not result in the type of costly forced redemption which Section 26(c) was designed to prevent.

21. The proposed substitutions also are unlike the type of substitution which Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their account values. They also select the specific type of insurance coverage offered by an Insurance Company under their Contract as well as numerous other rights and privileges set forth in the Contract. Contract owners may also have considered each Insurance Company's size, financial condition, relationship with MetLife, and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitutions.

22. The Substitution Applicants request an order of the Commission pursuant to Section 26(c) of the Act approving the proposed substitutions by the Insurance Companies.

23. The Section 17 Applicants request an order under Section 17(b) exempting them from the provisions of Section 17(a) to the extent necessary to permit the Insurance Companies to carry out each of the proposed substitutions.

24. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons acting as principals, from knowingly purchasing any security or other property from the registered company.

25. Because shares held by a separate account of an insurance company are legally owned by the insurance company, the Insurance Companies and their affiliates collectively own of record substantially all of the shares of MIST and Met Series Fund. Therefore, MIST and Met Series Fund and their

respective funds are arguably under the control of the Insurance Companies notwithstanding the fact that Contract owners may be considered the beneficial owners of those shares held in the Separate Accounts. If MIST and Met Series Fund and their respective funds are under the control of the Insurance Companies, then each Insurance Company is an affiliated person or an affiliated person of an affiliated person of MIST and Met Series Fund and their respective funds. If MIST and Met Series Fund and their respective funds are under the control of the Insurance Companies, then MIST and Met Series Fund and their respective funds are affiliated persons of the Insurance Companies.

26. Regardless of whether or not the Insurance Companies can be considered to control MIST and Met Series Fund and their respective funds, because the Insurance Companies own of record more than 5% of the shares of each of them and are under common control with each Replacement Fund's investment adviser, the Insurance Companies are affiliated persons of both MIST and Met Series Fund and their respective funds. Likewise, their respective funds are each an affiliated person of the Insurance Companies.

27. The Insurance Companies, through their separate accounts in the aggregate own more than 5% of the outstanding shares of the following Existing Funds: Dreyfus Stock Index Fund, VIP Asset Manager Portfolio, Lord Abbett Series Fund Mid-Cap Value Portfolio, Lord Abbett Series Fund Growth and Income Portfolio, Global Value Equity Portfolio, U.S. Mid-Cap Value Portfolio, Putnam VT Small Cap Value Fund, Templeton Global Asset Allocation Fund, Putnam VT International Equity Fund, Credit Suisse Emerging Markets Portfolio, AIM V.I. Capital Appreciation Fund, PIMCO Real Return Portfolio, DWS Small Cap Index VIP, DWS RREEF Real Estate Securities VIP, DWS International Select Equity VIP, DWS Money Market VIP, DWS Strategic Income VIP, DWS David Venture Value VIP. Therefore, each Insurance Company is an affiliated person of those funds.

28. Because the substitutions may be effected, in whole or in part, by means of in-kind redemptions and purchases, the substitutions may be deemed to involve one or more purchases or sales of securities or property between affiliated persons. The proposed transactions may involve a transfer of portfolio securities by the Existing Funds to the Insurance Companies; immediately thereafter, the Insurance Companies would purchase shares of the Replacement Funds with the portfolio securities received from the Existing Funds. Accordingly, as the Insurance Companies and certain of the Existing Funds listed above, and the Insurance Companies and the Replacement Funds, could be viewed as affiliated persons of one another under Section 2(a)(3) of the Act, it is conceivable that this aspect of the substitutions could be viewed as being prohibited by Section 17(a). The Section 17 Applicants are not seeking relief with respect to transactions with the Existing Funds where Section 17(a) does not apply. However, the Section 17 Applicants have determined to seek relief from Section 17(a) in the context of this Application for the in-kind purchases and sales of the Replacement Fund shares.

29. Section 17(b) of the Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the evidence establishes that: (i) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and records filed under the Act; and (iii) the proposed transaction is consistent with the general purposes of the Act.

30. The Section 17 Applicants submit that for all the reasons stated above the terms of the proposed in-kind purchases of shares of the Replacement Funds by the Insurance Companies, including the consideration to be paid and received are reasonable and fair and do not involve overreaching on the part of any person concerned. The Section 17 Applicants also submit that the proposed in-kind purchases by the Insurance Companies are consistent with the policies of: MIST and of its Lord Abbett Growth and Income, Neuberger Berman Real Estate, Third Avenue Small Cap Value, Lord Abbett Mid-Cap Value, MFS Research International, T. Rowe Price Mid-Cap Growth, BlackRock High Yield, Pioneer Strategic Income, Turner Mid Cap Growth, Loomis Sayles Global Markets, MFS Emerging Markets Equity, Met/AIM Capital Appreciation, PIMCO Inflation Protected Bond and MFS Value Portfolios; and Met Series Fund and of its T. Rowe Price Large Cap Growth, MFS Total Return, Oppenheimer Global Equity, BlackRock Money Market, MetLife Stock Index, Russell 2000 Index, BlackRock Bond Income, FI Value Leaders, T. Rowe Price Small Cap Growth, BlackRock Diversified, BlackRock Large Cap Value, Neuberger Berman Mid Cap and Capital Guardian U.S. Equity Portfolios, as recited in the current registration statements and reports filed by each under the Act. Finally, the Section 17 Applicants submit that the proposed substitutions are consistent with the general purposes of the Act.

31. To the extent that the in-kind purchases by the Insurance Company of the Replacement Funds' shares are deemed to involve principal transactions among affiliated persons, the procedures described below should be sufficient to assure that the terms of the proposed transactions are reasonable and fair to all participants. The Section 17 Applicants maintain that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each fund involved, are reasonable, fair and do not involve overreaching principally because the transactions will conform with all but one of the conditions enumerated in Rule 17a–7. The proposed transactions will take place at relative net asset value in conformity with the requirements of Section 22(c) of the Act and Rule 22c–1 thereunder with no change in the amount of any Contract owner's contract value or death benefit or in the dollar value of his or her investment in any of the Separate Accounts. Contract owners will not suffer any adverse tax consequences as a result of the substitutions. The fees and charges under the Contracts will not increase because of the substitutions. Even though the Separate Accounts, the Insurance Companies, MIST and Met Series Fund may not rely on Rule 17a–7, the Section 17 Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons.

32. The boards of MIST and Met Series Fund have adopted procedures, as required by paragraph (e)(1) of Rule 17a–7, pursuant to which the series of each may purchase and sell securities to and from their affiliates. The Section 17 Applicants will carry out the proposed Insurance Company in-kind purchases in conformity with all of the conditions of Rule 17a–7 and each series' procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. Nevertheless, the circumstances surrounding the

proposed substitutions will be such as to offer the same degree of protection to each Replacement Fund from overreaching that Rule 17a–7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, the Insurance Companies (or any of their affiliates) cannot effect the proposed transactions at a price that is disadvantageous to any of the Replacement Funds. Although the transactions may not be entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of each fund involved valued in accordance with the procedures disclosed in its respective Investment Company's registration statement and as required by Rule 22c–1 under the Act. No brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed in kind purchase transactions.

33. The sale of shares of Replacement Funds for investment securities, as contemplated by the proposed Insurance Company in-kind purchases, is consistent with the investment policy and restrictions of the Investment Companies and the Replacement Funds because (1) the shares are sold at their net asset value, and (2) the portfolio securities are of the type and quality that the Replacement Funds would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, Met Investors Advisory LLC, MetLife Advisers, LLC and the sub-adviser, as applicable, will examine the portfolio securities being offered to each Replacement Fund and accept only those securities as consideration for shares that it would have acquired for each such fund in a cash transaction.

34. The Section 17 Applicants submit that the proposed Insurance Company in-kind purchases are consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in Section 1 of the Act and that the proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent.

35. The Section 17 Applicants represent that the proposed in-kind purchases meet all of the requirements of Section 17(b) of the Act request that the Commission issue an order pursuant to Section 17(b) of the Act exempting the Separate Accounts, the Insurance Companies, MIST, Met Series Fund and each Replacement Fund from the provisions of Section 17(a) of the Act to the extent necessary to permit the Insurance Companies on behalf of the Separate Accounts to carry out, as part of the substitutions, the in-kind purchase of shares of the Replacement Funds which may be deemed to be prohibited by Section 17(a) of the Act.

Conclusion

Applicants assert that for the reasons summarized above the proposed substitutions and related transactions meet the standards of Section 26(c) of the Act and are consistent with the standards of Section 17(b) of the Act and that the requested orders should be granted.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–6852 Filed 4–10–07; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 5750]

30-Day Notice of Proposed Information Collection: Form DS–4048, Projected Sales of Major Weapons in Support of Section 25(a)(1) of the Arms Export Control Act; OMB Control Number 1405–0156

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Projected Sales of Major Weapons in Support of Section 25(a)(1) of the Arms Export Control Act.
- *OMB Control Number:* 1405–0156.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, (PM/DDTC).
- *Form Number:* DS–4048.
- *Respondents:* Business organizations.
- *Estimated Number of Respondents:* 20 (total).
- *Estimated Number of Responses:* 20 (per year).
- *Average Hours Per Response:* 60 hours.
- *Total Estimated Burden:* 1200 hours (per year).
- *Frequency:* Once a year.
- *Obligation to Respond:* Voluntary.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from April 11, 2007.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: kastricht@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Patricia C. Slygh, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112, who may be reached on (202) 663–2700 and E-mail: *Slyghpc@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The information will be used to prepare an annual report to Congress regarding arms sales proposals covering all Foreign Military Sales (FMS) and licensed commercial exports of major weapons or weapons-related defense equipment for $7,000,000 or more, or of any other weapons or weapons-related defense equipment for $25,000,000 or more, which are considered eligible for approval during the current calendar year in accordance with section 25 of the Arms Export Control Act (AECA) [22 U.S.C. 2765].

Methodology: Respondents may submit the information by e-mail using DS–4048, an Excel electronic spreadsheet, or by letter using the fax or postal mail.

Dated: March 23, 2007.

Gregory M. Suchan,

Deputy Assistant Secretary for Defense Trade Controls, Bureau of Political-Military Affairs, Department of State.

[FR Doc. E7–6874 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 5751]

Bureau of Political-Military Affairs; Statutory Debarment of ITT Corporation Pursuant to the Arms Export Control Act and the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that persons convicted of violating Section 38 of the Arms Export Control Act, as amended, (''AECA'') (22 U.S.C. 2778) are statutorily debarred pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the International Traffic in Arms Regulations (''ITAR'') (22 CFR 127.7(c)). On March 28, 2007, in the United States District Court for the Western District of Virginia, ITT Corporation entered a guilty plea to the willful export of defense articles without a license, in violation of Section 38 of the AECA and Sections 127.1(a) and 127.3 of the ITAR.

EFFECTIVE DATE: March 28, 2007.

FOR FURTHER INFORMATION CONTACT: David Trimble, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), prohibits the Department of State from issuing licenses for the export of items on the U.S. Munitions List, where the applicant or any party to the export, has been convicted of violating certain statutory provisions, including Section 38 of the AECA. In implementing this provision, Section 127.7 of the ITAR, 22 CFR 127.7, provides for ''statutory debarment'' of any person who has been convicted of violating or conspiring to violate the AECA. Persons subject to debarment are prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required.

On March 28, 2007, in the United States District Court for the Western District of Virginia, ITT Corporation entered a guilty plea to the willful export of defense articles without a license, in violation of Section 38 of the AECA and Sections 127.1(a) and 127.3 of the ITAR. Pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the ITAR, ITT Corporation is statutorily debarred. The Acting Assistant Secretary of State for Political-Military Affairs after a full review of the circumstances, finding that appropriate steps have been taken to mitigate any law enforcement concerns, has decided to except out of the statutory debarment all present ITT Corporation business units but the culpable ITT entity responsible for the violations resulting in the aforementioned plea, ITT-Night Vision Division.

The Acting Assistant Secretary for Political-Military Affairs has determined, based on the underlying nature of the violations, the debarment period shall be for three years, however, the Department will consider reinstatement requests from debarred persons one year after the date of debarment. At the end of the debarment period, export privileges may be reinstated only at the request of ITT Corporation, followed by interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns as required by Section 38(g)(4) of the AECA. Unless export privileges are reinstated, however, ITT Corporation will remain debarred.

Exceptions, also known as transaction exceptions, may be granted with respect to this debarment on a case-by-case basis at the discretion of the Assistant Secretary of State for Political-Military Affairs after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns. Such exceptions have been granted with respect to certain existing authorization and pending authorizations for key programs involving ITT-Night Vision Division that have been identified as being necessary to U.S. national security and foreign policy interests. Approvals of future requests for authorizations may be granted after a full review of all circumstances to include law enforcement concerns and whether an exception is warranted by overriding U.S. foreign policy or national security interests, or whether an exception would further law enforcement concerns that are consistent with foreign policy or national security interest of the United States, and whether other compelling concerns exist that are consistent with the foreign policy or national security interests of the United States.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see *e.g.*, Sections 120.1(c) and (d) and 127.11(a)). Pursuant to Section 127.1(c) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any export in which such ineligible person may benefit or have any direct or indirect interest.

This notice is provided to make the public aware that the parties listed above, unless an exception applies, are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities, and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the clerk for the U.S. District Court mentioned above.

Dated: March 26, 2007.

Stephen D. Mull,

Acting Assistant Secretary for Political-Military Affairs.

[FR Doc. E7–6869 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 5683]

Notice of Charter Renewal for the Advisory Committee on Historical Diplomatic Documentation

The Advisory Committee on Historical Diplomatic Documentation has renewed its charter for an additional period of two years. This Advisory Committee will continue to make recommendations to the Historian and the Department of State on all aspects of the Department's program to publish the *Foreign Relations of the United States* series as well as on the Department's responsibility under statute (22 U.S.C. 4351, *et seq.*) to open its 30-year old and older records for public review at the National Archives and Records Administration. The Committee consists of nine members drawn from among

historians, political scientists, archivists, international lawyers, and other social scientists who are distinguished in the field of U.S. foreign relations.

Questions concerning the Committee and the renewal of its Charter should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663–1123 (e-mail *history@state.gov*).

Dated: April 5, 2007.

Marc J. Susser,

Executive Secretary, Department of State.

[FR Doc. E7–6871 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 5679]

Amendment to Section IV, Part A of the International Security Advisory Board Charter To Reflect an Increase in Board Membership to Not More Than 25 Members

Advisory Board Charter Amendment: The Department of State announces the amendment of the charter of the Department of State's International Security Advisory Board (ISAB). It has been determined that increasing the Board's membership to 25 members will provide an opportunity for the Board to reflect a greater balance of backgrounds, points of view, and demographic diversity in its policy recommendations. This increase will also permit the Board to conduct more studies simultaneously, which will enhance the Board's responsiveness to study requests by the Secretary and Under Secretary for Arms Control and International Security.

The purpose and scope of the Board remain unchanged. Specifically, the Board will advise and make recommendations to the Secretary on United States arms control, disarmament, international security, and nonproliferation policy and activities.

Contact for information: The staff of the Under Secretary for Arms Control and International Security is responsible for supporting the Board. For additional information, contact Dr. George Look, Bureau of International Security and Nonproliferation, Department of State, Washington, DC 20520, telephone (202) 736–4244.

Dated: March 30, 2007.

George W. Look,

Executive Director, International Security Advisory Board, Department of State.

[FR Doc. E7–6861 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice 5752]

Deadline for Initial Accreditation or Approval for Agencies and Persons in Order To Be Accredited/Approved When the Hague Adoption Convention Enters Into Force for the United States

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Pursuant to the Intercountry Adoption Act of 2000 (the IAA), the Department of State (the Department) is the Central Authority for the United States for implementation of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Convention). Once the Convention enters into force for the United States, agencies and persons that provide adoption services in cases covered by the Convention must be accredited, temporarily accredited, approved, or otherwise exempt. The Department previously announced in the **Federal Register** the establishment of the transitional application deadline (TAD) for accreditation and approval as November 17, 2006. The Department is now setting the deadline for initial accreditation or approval (DIAA) for February 15, 2008. All agencies and persons that applied by the TAD must complete the accreditation/approval process by February 15, 2008, to be eligible for accreditation, temporary accreditation, or approval at the time the Convention enters into force for the United States.

FOR FURTHER INFORMATION CONTACT: Anna Mary Coburn at 202–736–9081. Hearing or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Convention is a multilateral treaty that provides a framework for the adoption of children habitually resident in one country that is a party to the Convention by persons habitually resident in another country that is also a party to the Convention. The Convention establishes procedures to be followed in these intercountry adoption cases and imposes safeguards to protect the best interests of children. When the Convention enters into force for the United States, it will apply to the United States as both a country of origin (outgoing cases, *i.e.*, where children are emigrating from the United States to a foreign country) and a receiving country (incoming cases, *i.e.*, where children are immigrating to the United States from a foreign country). The implementing legislation for the Convention is the IAA. Under the Convention, the IAA, and the final rule on accreditation, 22 CFR part 96, all agencies and persons providing adoption services must be accredited, temporarily accredited, approved, or exempt in order to provide adoption services in Convention cases.

The DIAA is February 15, 2008. The DIAA means that any agency or person that applied by the TAD must complete the accreditation/approval process by February 15, 2008, in order to be eligible for accreditation, temporary accreditation, or approval at the time the Convention enters into force for the United States. All agencies and persons must complete the accreditation or approval process, including the correction of any identified deficiencies, by February 15, 2008, if they are seeking accreditation, temporary accreditation, or approval by the time the Convention enters into force for the United States. Agencies and persons can seek accreditation after the DIAA and will be added to the list of approved persons and accredited agencies when approval or accreditation is granted.

The DIAA date is not the date that the Convention will enter into force for the United States. Before the Convention enters into force for the United States, the United States must deposit its instrument of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, in accordance with Article 43 of the Convention. The United States intends to deposit its instrument of ratification in late 2007. The Convention will enter force for the United States on the first day of the month following the expiration of three months after the date of deposit. In accordance with 22 CFR 96.17, the Department will publish a notice in the **Federal Register** announcing the date on which the Convention will enter into force for the United States.

Dated: April 5, 2007.

Maura Harty,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E7–6866 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5691]

Fourth Public Meeting of the Advisory Committee on Persons With Disabilities

Summary: The Advisory Committee on Persons with Disabilities will conduct its fourth public meeting on Wednesday, May 2, 2007 from 9 a.m.–4 p.m. in the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC 20004. For directions, see, *http://www.itcdc.com/index.php.*

Attendees must have valid, government-issued identification, such as a Driver's License or passport, in order to enter the building. Attendees requiring reasonable accommodation should indicate their requirements one week prior to the event to Stephanie Ortoleva at *ortolevas@state.gov.*

The Advisory Committee is made up of the Secretary of State, the Administrator of the U.S. Agency for International Development and an Executive Director (all ex-officio members); and eight members from outside the United States government: Senda Benaissa, Joni Eareckson Tada, Vail Horton, John Kemp, Albert H. Linden, Jr., Kathleen Martinez, John Register and James E. Vermillion.

Established on June 23, 2004, the Advisory Committee serves the Secretary and the Administrator in an advisory capacity with respect to the consideration of the interests of persons with disabilities in formulation and implementation of U.S. foreign policy and foreign assistance. The Committee is established under the general authority of the Secretary and the Department of State as set forth in Title 22 of the United States Code, in particular Sections 2656 and 2651a, and in accordance with the Federal Advisory Committee Act, as amended.

Dated: April 5, 2007.

Stephanie Ortoleva,

Bureau of Democracy, Human Rights and Labor, Department of State.

[FR Doc. E7–6873 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF STATE

[Public Notice 5753]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 a.m. on Monday, May 7, 2007, in Room 1422 of the United States Coast Guard Headquarters Building, 2100 2nd Street SW., Washington, DC 20593–0001. The purpose of this meeting is to prepare for the International Maritime Organization (IMO) International Conference on the Removal of Wrecks, 2007, scheduled from 14–18 May 2007 in Nairobi, Kenya.

The provisional agenda calls for the Conference to consider a draft convention on the removal of wrecks, the text of which has been prepared by the IMO Legal Committee, and any draft Conference resolutions. The agenda also calls for the adoption of the Final Act and any instruments, recommendations and resolutions resulting from the work of the Conference as well as signature of the Final Act.

Members of the public are invited to attend the SHC meeting up to the seating capacity of the room. To facilitate the building security process, those who plan to attend should call or send an e-mail two days before the meeting. Upon request, participating by phone may be an option. For further information please contact Captain Chuck Michel or Lieutenant Commander Laurina Spolidoro, at U.S. Coast Guard, Office of Maritime and International Law (CG–0941), 2100 Second Street, SW., Washington, DC 20593–0001; e-mail *Laurina.M.Spolidoro@uscg.mil*, telephone (202) 372–3794; fax (202) 372–3972.

Dated: April 3, 2007.

Michael E. Tousley,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. E7–6865 Filed 4–10–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

National Surface Transportation Infrastructure Financing Commission

AGENCY: Department of Transportation (DOT).

ACTION: Notice of meeting location and time.

SUMMARY: This notice lists the location and time of the first meeting of the National Surface Transportation Infrastructure Financing Commission.

FOR FURTHER INFORMATION CONTACT: Jack Wells, Chief Economist, U.S. Department of Transportation, 202–366–9224, *jack.wells@dot.gov.*

SUPPLEMENTARY INFORMATION: By **Federal Register** Notice dated March 12, 2007, the U.S. Department of Transportation the ''Department'') issued a notice of intent to form the National Surface Transportation Infrastructure Financing Commission (the ''Financing Commission''), in accordance with the requirements of the Federal Advisory Committee Act (''FACA'') (5 U.S.C. App. 2) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (''SAFETEA–LU'') (Pub. L. 109–59, 119 Stat. 1144). Section 11142(a) of SAFETEA–LU established the National Surface Transportation Infrastructure Financing Commission and charged it to analyze future highway and transit needs and the finances of the Highway Trust Fund and to make recommendations regarding alternative approaches to financing transportation infrastructure.

Notice of Meeting Location and Time

The Department has set April 25, 2007, as the date for the inaugural Financing Commission meeting. The meeting will take place from 9:30 a.m. to 4:30 p.m. at the Oklahoma City Memorial Room (Room 2230) in the Department's headquarters building, located at 400 7th Street, SW., Washington, DC 20590.

Issued on April 6, 2007.

Jack Wells,

Chief Economist, U.S. Department of Transportation, Designated Federal Official.

[FR Doc. 07–1808 Filed 4–6–07; 3:01 pm]

BILLING CODE 4910–9X–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–27804]

Proposed Memorandum of Understanding (MOU) Assigning Certain Federal Environmental Responsibilities to the State of California, Including National Environmental Policy Act (NEPA) Authority for Certain Categorical Exclusions (CEs)

AGENCY: Federal Highway Administration (FHWA), California Office, DOT.

ACTION: Notice of proposed MOU, request for comments.

SUMMARY: This notice announces that the FHWA and the State of California, acting by and through its Department of Transportation (State), propose to enter into a MOU pursuant to 23 U.S.C. 326. The MOU would transfer to the State the FHWA's authority and responsibility for determining whether certain designated activities within the geographic boundaries of the State, as specified in the proposed MOU, are

categorically excluded from preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). The MOU also would assign to the State the responsibility for carrying out certain other environmental review, consultation, and related activities for those CE Federal-aid Highway Program projects within the State. The public is invited to comment on any aspect of the proposed MOU, including the types of projects for which CE decision-making authority would be assigned to the State and the scope of the environmental review, consultation, and other activities that would be assigned.

DATES: Please submit comments by May 29, 2007.

ADDRESSES: You may submit comments, identified by DOT Document Management System (DMS) Docket Number [FHWA–2007–27804], by any of the methods described below. Electronic or facsimile comments are preferred because Federal offices experience intermittent mail delays from security screening.

1. *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

2. *Facsimile (Fax):* 1–202–493–2251.

3. *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.

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. e.t., Monday through Friday, except Federal holidays.

For access to the docket to view a complete copy of the proposed MOU, or to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC., between 9 a.m. and 5 p.m. e.t., Monday through Friday, except for Federal holidays. After June 1, 2007, those wishing to inspect documents should confirm the current address for the Docket management facility because it is scheduled to relocate later this year.

FOR FURTHER INFORMATION CONTACT: For FHWA: Maiser Khaled, Director, Project Development and Environment, Federal Highway Administration, California Division, 650 Capitol Mall, Suite 4–100, Sacramento, CA 95814; by e-mail at *maiser.khaled@fhwa.dot.gov* or by telephone at 916–498–5020. The FHWA California Division Office's normal business hours are 8 a.m. to 4:30 p.m. (Pacific Time), Monday–Friday, except for Federal Holidays.

For State: Cindy Adams, NEPA Delegation Manager, California Department of Transportation, Division of Environmental Analysis, MS#27, P.O. Box 942874, Sacramento, CA, 94274–0001; by e-mail at *NEPA_delegation@dot.ca.gov*; by telephone at (916) 653–5157. The California Department of Transportation's normal business hours are 8 a.m. to 5 p.m. (Pacific Time), Monday–Friday, except for State and Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.* An electronic version of the proposed MOU may be downloaded by accessing the DOT DMS docket, as described above, at *http://dms.dot.gov.*

Background

Section 6004(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109–059, 119 Stat. 1144), codified as Section 326 of amended Chapter 3 of title 23, United States Code (23 U.S.C. 326), allows the Secretary of the DOT (Secretary), to assign, and a State to assume, responsibility for determining whether certain designated activities are included within classes of action that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (CFR) (as in effect on October 1, 2003). The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

The FHWA and the State propose to enter into a MOU that would have an initial term of three (3) years. Stipulation I (B) of the proposed MOU describes the types of actions for which the State would assume project-level responsibility for determining whether the criteria for a CE are met. Statewide decision-making responsibility would be assigned for all activities within the categories listed in 23 CFR 771.117(c), those listed as examples in 23 CFR 771.117(d), and the following additional categories of actions:

1. Construction, modification, or repair of storm water treatment devices (e.g., detention basins, bio-swales, media filters, and infiltration basins), protection measures such as slope stabilization and other erosion control measures.

2. Replacement, modification, or repair of culverts or other drainage facilities.

3. Projects undertaken to assure the creation, maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife (e.g., revegetation of disturbed areas with native plant species; stream or river bank revegetation; construction of new, or maintenance of existing fish passage conveyances or structures; restoration or creation of wetlands).

4. Routine repair of facilities due to storm damage, including permanent repair to return the facility to operational condition that meets current standards of design and public health and safety without expanding capacity (e.g., slide repairs, construction or repair of retaining walls).

5. Routine seismic retrofit of facilities to meet current seismic standards and public health and safety standards without expansion of capacity.

6. Air space leases subject to Subpart D, Part 710, Title 23, Code of Federal Regulations.

7. Drilling of test bores/soil sampling.

The proposed MOU also would assign to the State the responsibility for conducting Federal environmental review, consultation, and other related activities for projects that are subject to the MOU with respect to the following Federal laws and Executive Orders:

1. Clean Air Act (CAA), 42 U.S.C. 7401–7671q (determinations of project-level conformity if required for the project).

2. Compliance with the noise regulations in 23 CFR part 772.

3. Section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531–1544, and Section 1536.

4. Marine Mammal Protection Act, 16 U.S.C. 1361.

5. Anadromous Fish Conservation Act, 16 U.S.C. 757a–757g.

6. Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d.

7. Migratory Bird Treaty Act, 16 U.S.C. 703–712.

8. Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*

9. Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f) *et seq.*

10. Section 4(f) of the Department of Transportation Act of 1966, 23 U.S.C. 138 and 49 U.S.C. 303.

11. Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 469–469(c).

12. American Indian Religious Freedom Act, 42 U.S.C. 1996.

13. Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209.

14. Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319).

15. Coastal Barrier Resources Act, 16 U.S.C. 3501–3510.

16. Coastal Zone Management Act, 16 U.S.C. 1451–1465.

17. Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–6.

18. Rivers and Harbors Act of 1899, 33 U.S.C. 401–406.

19. Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287.

20. Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931.

21. TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11).

22. Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

23. Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4 (known as Section 6(f)).

24. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675.

25. Superfund Amendments and Reauthorization Act of 1986 (SARA).

26. Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k.

27. Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

28. Executive Orders Relating to Highway Projects (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. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 13112, Invasive Species).

The MOU would allow the State to act in the place of the FHWA in carrying out the functions described above, except with respect to government-to-government consultations with federally-recognized Indian tribes. The FHWA will retain responsibility for conducting formal government-to-government consultations with federally-recognized Indian tribes, which is required under some of the listed laws and executive orders. The State will continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with the FHWA upon request. The State also may assist the FHWA with formal consultations, with the consent of a tribe, but the FHWA remains responsible for the consultation.

The scope of the proposed assignment and terms and conditions of the assignment are contained in the proposed MOU. A copy of the proposed MOU, together with State documentation supporting the assignment of decision-making authority under 23 CFR 771.117(d) for the seven categories of activities listed above, may be viewed on the DOT DMS Docket, as described above, or may be obtained by contacting the FHWA or the State at the addresses provided above. A copy also may be viewed at *http://www.dot.ca.gov/hq/env/nepa_pilot/imndex.htm*.

The FHWA California Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU. Once the FHWA makes a decision on the proposed MOU and on the categories of actions to which the assignment will apply, the FHWA will place in the DOT DMS Docket a statement describing the outcome of the decision-making process and a copy of any final MOU, including final descriptions of the CE authority assigned to the State. The FHWA also will publish in the **Federal Register** a notice of the FHWA decision and the availability of any final MOU. Copies of the final documents also may be obtained by contacting the FHWA or the State at the addresses provided above, or by viewing the documents at *http://www.dot.ca.gov/hq/env/nepa_pilot/imndex.htm*.

(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. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Issued on: April 3, 2007.

Gene K. Fong,

California Division Administrator Sacramento.

[FR Doc. E7–6787 Filed 4–10–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35013]

Patriot Rail, LLC and Patriot Rail Corp.—Control Exemption—Rarus Railway Company

Patriot Rail, LLC (PRL) and its subsidiary Patriot Rail Corp. (Patriot) have filed a verified notice of exemption to permit PRL and Patriot to acquire control of the Rarus Railway Company (Rarus) by having Patriot Acquisition Corporation (PAC), a wholly owned subsidiary of Patriot, purchase 100% of the outstanding stock of Rarus. Rarus is a Class III rail carrier and operates a 25.7-mile line of railroad between Butte, MT, and Anaconda, MT.[1]

PRL is a noncarrier limited liability company that owns 51% of the stock of Patriot. Patriot is a noncarrier holding company that owns 100% of the stock of the Tennessee Southern Railroad Company (TSRR), a Class III rail carrier operating a 118-mile line of railroad between specified points in Tennessee and Alabama. Patriot also owns 100% of the stock of PAC, the holding company that will acquire 100% of the outstanding stock of Rarus. Through Patriot's control of PAC, Patriot will acquire indirect control of Rarus. Through PRL's control of Patriot, PRL will also acquire indirect control of Rarus.

The transaction is scheduled to be consummated after the effectiveness of the exemption, and no earlier than April 25, 2007.

Applicants state that: (i) The rail lines involved in this transaction do not connect with any rail lines now controlled, directly or indirectly, by PRL and Patriot; (ii) this transaction is not part of a series of anticipated transactions that would connect any of these rail lines with each other or any railroad in their corporate family; and (iii) this transaction does not involve a Class I carrier. Therefore, this transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail

[1] A copy of an Amended and Restated Stock Purchase Agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 18, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35013, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 4, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–6851 Filed 4–10–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5308

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 5308, Request for Change in Plan/Trust Year.

DATES: Written comments should be received on or before June 11, 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: Request for Change in Plan/Trust Year.

OMB Number: 1545–0201.

Form Number: 5308.

Abstract: Form 5308 is used to request permission to change the plan or trust year for a pension benefit plan. The information submitted is used in determining whether IRS should grant permission for the change.

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: 480.

Estimated Time per Respondent: 42 minutes.

Estimated Total Annual Burden Hours: 339.

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: April 4, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–6769 Filed 4–10–07; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 72, No. 69

Wednesday, April 11, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, and 166

RIN 3038–AC26

Exemption from Registration for Certain Foreign Persons

Correction

In proposed rule document 07–1522 beginning on page 15637 in the issue of Monday, April 2, 2007, make the following corrections:

1. On page 15638, in the second column, in footnote 6, in the third line, ''*A Wiscope*'' should read ''*Wiscope*''.

2. On the same page, in the same column, in the same footnote, in the seventh line, ''division'' should read ''decision''.

3. On the same page, in the same column, in footnote 8, in the fifth line, ''45 FR 80490'' should read ''45 FR 80485, 80490''.

4. On the same page, in the third column, in the last paragraph, in the eleventh line, ''participation'' should read ''participants''.

5. On page 15640, in the second column, in the sixth line from the bottom, ''*17 CFR Part 5*'' should read ''*17 CFR Part 15*''.

[FR Doc. C7–1522 Filed 4–10–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
April 11, 2007

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 92

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2007 Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

RIN 1018–AU59

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2007 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is publishing harvest regulations for migratory bird subsistence hunting in Alaska for the 2007 season. This final rule establishes regulations that prescribe frameworks, or outer limits, for dates when harvesting of birds may occur, species that can be taken, and methods and means that are excluded from use. These regulations were developed under a Co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. These regulations provide a framework to enable the continuation of customary and traditional subsistence uses of migratory birds in Alaska. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking establishes regulations that go into effect on April 2, 2007, and expire on August 31, 2007.

DATES: The amendments to subpart C of 50 CFR part 92 become effective May 11, 2007. The amendments to subparts A and D of 50 CFR part 92 are effective April 11, 2007, through August 31, 2007.

FOR FURTHER INFORMATION CONTACT: Fred Armstrong, (907) 786–3887, or Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Background

How Do I Find the History of These Regulations?

Background information, including past events leading to this action, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history of addressing conservation issues can be found in the following **Federal Register** notices: August 16, 2002 (67 FR 53511), July 21, 2003 (68 FR 43010), April 2, 2004 (69 FR 17318), April 8, 2005 (70 FR 18244), and February 28, 2006 (71 FR 10404). These documents are readily available at *http://alaska.fws.gov/ambcc/regulations.htm.*

Why Is This Current Rulemaking Necessary?

This current rulemaking is necessary because the migratory bird harvest season is closed unless opened, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. The Co-management Council held a meeting in April 2006 to develop recommendations for changes effective for the 2007 harvest season. These recommendations were presented to the Service Regulations Committee (SRC) on July 26 and 27, 2006, and were approved.

On December 13, 2006, we published in the **Federal Register** (71 FR 75061) a proposed rule to establish spring/summer migratory bird subsistence harvest regulations in Alaska for the 2007 subsistence season. The proposed rule provided for a public comment period of 60 days.

This rule finalizes regulations for the taking of migratory birds for subsistence uses in Alaska during 2007. This rule lists migratory bird species that are open or closed to harvest, as well as season openings and closures by region, and a change to the Fairbanks North Star Borough excluded area. It also describes a change in the methods and means of taking migratory birds for subsistence purposes.

How Will the Service Continue To Ensure That the Subsistence Harvest Will Not Raise Overall Migratory Bird Harvest?

The Service has an emergency closure provision (50 CFR 92.21), so that if any significant increases in harvest are documented for one or more species in a region, an emergency closure can be requested and implemented. Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands and in areas north and west of the Alaska Range (50 CFR 92.5). These geographical restrictions opened the initial subsistence migratory bird harvest to only about 13 percent of Alaska residents. High-population areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area and Southeast Alaska were excluded from the eligible subsistence harvest areas.

Based on petitions requesting inclusion in the harvest, in 2004, we added 13 additional communities based on the five criteria set forth in 50 CFR 92.5(c). These communities included: Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham and Nanwalek, Tyonek, and Hoonah, with populations totaling 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only, based on petitions requesting inclusion. These southeastern communities included Craig, Hydaburg, and Yakutat, with a combined population of 2,459. These new communities increased the percentage of the State population included in the subsistence bird harvest to 14 percent.

In this rule, we have enacted the Alaska Department of Fish and Game's (ADFG) request to expand the Fairbanks North Star Borough excluded area to the Central Interior excluded area comprising the following: That portion of Unit 20(A) east of the Wood River drainage and south of Rex Trail, including the upper Wood River drainage south of its confluence with Chicken Creek; that portion of Unit 20(C) east of Denali National Park north to Rock Creek and east to Unit 20(A); and that portion of Unit 20(D) west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volmar drainage, including the Goodpaster River drainage.

The purpose of the excluded area's expansion is to prevent new traditions and increased harvest levels that could result from inclusion of communities that have not traditionally hunted migratory birds in the spring and summer for subsistence. Specifically, this regulation would exclude residents of Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy and Ferry from eligibility to participate in spring/summer migratory bird subsistence hunts. There is no evidence that there has been a tradition of spring/summer subsistence migratory bird hunting in the excluded area. ADFG also cited the action by the Alaska Joint Boards of Fisheries and Game in 1992 creating the Fairbanks Non-subsistence area as additional rationale for this regulation. The report focused on a socio-economic study that was conducted to determine whether or not subsistence traits existed in the Fairbanks region to justify it being considered a subsistence eligible area. The summary report recommended the

Fairbanks area be considered a nonsubsistence use area. The study was based on the application of 12 socio-economic factors to each community to determine whether or not subsistence-related traits existed.

In addition, we clarified the definition of excluded areas to explain that persons living in excluded areas are not eligible to participate in the Alaska spring/summer subsistence harvest and that the excluded area is closed to harvesting.

What Is Changing in the Methods and Means Prohibitions for 2007?

When we established the initial methods and means regulations (68 FR 43010, July 21, 2003), we followed the Co-management Council recommendation to adopt those existing methods and means prohibitions that occur in the Federal (50 CFR 20.21) and Alaska (5AAC92.100) migratory bird hunting regulations and that do not conflict with the customary and traditional methods of taking birds. In this rule, we have incorporated the ADFG's request to prohibit baiting and shooting over a baited area (Statewide).

What Is Changing in the List of Birds Open to Harvest for 2007?

At the request of the North Slope Borough Fish and Game Management Committee, the Co-management Council recommended continuing into 2007 the provisions originally established in 2005 to allow subsistence use of yellow-billed loons inadvertently caught in subsistence fishing (gill) nets on the North Slope. Yellow-billed loons are culturally important for the Inupiat Eskimo of the North Slope for use in traditional dance regalia. A maximum of 20 yellow-billed loons may be caught in 2007 pursuant to this provision. The North Slope Borough Department of Wildlife requires individuals to report their take of yellow-billed loons by the end of each season. In addition, the North Slope Borough has asked fishermen, through announcements on the radio and through personal contact, to report all entanglements of loons to better estimate the levels of injury or mortality caused by gill nets. In 2006, four yellow-billed loons were reported taken in fishing nets and an additional one was found alive in a net and released. This provision, to allow subsistence possession and use of yellow-billed loons caught in fishing gill nets, is subject to annual review and renewal by the SRC.

Summary of Public Involvement

On December 13, 2006, we published in the **Federal Register** (71 FR 75061) a proposed rule to establish spring/summer migratory bird subsistence harvest regulations in Alaska for the 2007 subsistence season. The proposed rule provided for a public comment period of 60 days. We posted an announcement of the comment period dates for the proposed rule, as well as the rule itself and related historical documents, on the Council's internet homepage. We issued a press release announcing our request for public comments and the pertinent deadlines for such comments, which was faxed to the media Statewide. By the close of the public comment period on February 12, 2007, we had received written responses from three entities. Two of the responses were from individuals and one from a non-governmental organization.

Response to Public Comments

General Comments

One general comment was received on the overall regulations by expressing strong opposition to the concept of allowing any harvest of migratory birds in Alaska.

Service Response: For centuries, indigenous inhabitants of Alaska have harvested migratory birds for subsistence purposes during the spring and summer months. The Canada and Mexico migratory bird treaties were recently amended for the express purpose of allowing subsistence hunting for migratory birds during the spring and summer and clearly contemplate that the Service would issue regulations allowing such hunting as provided in the Migratory Bird Treat Act, 16 U.S.C. 712(1). See **Statutory Authority** section for more details.

The Preamble of the Protocol amending the Canada Treaty states one of its goals is to allow a traditional subsistence hunt while also improving conservation of migratory birds through effective regulation of this hunt. In addition, the Preamble notes that, by sanctioning a traditional subsistence hunt, the Parties do not intend to cause significant increases in the take of migratory birds, relative to their continental population sizes, compared to the take that is presently occurring. Any such increase in take as a result of the types of hunting provided for in the Protocol would be inconsistent with the Convention. If at some point the subsistence harvest regulations result in increased harvest, management strategies will be implemented to ensure maintenance of continental populations.

How Will the Service Continue To Ensure That the Subsistence Harvest Will Not Raise Overall Migratory Bird Harvest?

Two comments were received regarding passage of a request to expand the Fairbanks North Star Borough excluded area to the Central Interior excluded area, which would exclude residents of Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy and Ferry from eligibility to participate in spring/summer migratory bird subsistence hunts. The expansion mirrors the current State of Alaska Fairbanks Non-subsistence Use Area boundaries. One commenter expressed support of expansion of the excluded area, stating that there is no evidence of a tradition of spring/summer subsistence hunting within the area. Another commenter brought up the question of whether due process was followed in the decision making process to take away the subsistence rights of the subsistence users in this area. The commenter further questions if all means (example: radio, television, local paper, State paper, flyers, meeting etc.) were exhausted in notifying the public (community) to weigh in on this issue involving taking away their subsistence right to hunt waterfowl. The commenter asks why other options were not brought to the table, such as alternate means of management including quotas or bag limits. The commenter also asks if there were any biological studies reflecting a negative impact on the waterfowl harvested in the area.

Service Response: A process for petitioning to exclude a community was approved by the Co-management Council on April 6, 2006. The approval process starts with petitions to exclude communities being sent to the Co-management Council during the November 1–December 15 open submission period. A petition should address the five criteria listed in 50 CFR 92.5(c). Upon submission, the petition will follow the normal review process outlined for regulatory proposals, including review by the Co-management Council's Technical Committee and petition dispersal to the regional management bodies for their review and recommendation(s). The affected regions are then responsible to conduct public meetings in the affected communities, after appropriate public notice.

In a public meeting held in Anchorage on April 6, 2006, the Co-management Council voted to recommend approval of the proposal to expand the Fairbanks North Star Borough excluded area and re-named it the Central Interior

excluded area. Justification to proceed was based on the fact that there is no evidence that there has been a tradition of spring and summer hunting of migratory birds in the proposed excluded area. The proposal cited previous action by the Alaska Joint Boards of Fisheries and Game in 1992 creating the Fairbanks Non-subsistence area as rationale for this regulation. The report focused on a socio-economic study that was conducted to determine whether or not subsistence traits existed in the Fairbanks region to justify it being considered a subsistence eligible area. The summary report recommended the Fairbanks area be considered a non-subsistence use area. The study was based on the application of 12 socio-economic factors to each community to determine whether or not subsistence-related traits existed. The Joint Boards of Fisheries and Game unanimously approved the non-subsistence use area.

To address the commenter's concern about public notification, we offer the following: The issue of excluding communities in the Interior of Alaska is not a new issue. Since the inception of the Co-management Council, we have had several proposals to expand or exclude either the Interior region or communities from participating in the spring and summer harvest of migratory birds in Alaska. The first year, a proposal was submitted to exclude several communities including Delta Junction, Tok, and other communities located on the Alaska Highway. At that time, the Co-management Council rejected the proposal based on the fact that there was no process or criteria for excluding communities or regions from participation in the spring/summer program. The second year, a proposal was submitted to exclude the agricultural fields located on the Alaska Highway that were the focus of the problem encountered by farmers and hunters. That proposal was rejected based on the fact that the regional management partner had not held any regional meetings to vet the proposal.

The Co-management Council is required by its by-laws to publicize the meetings 30 days prior to the meetings in a public newspaper. We also post the notices, draft agendas, and proposals on our website, which is available to anyone with internet access. The Co-management Council also utilizes the Service's Alaska Region External Affairs distribution system, which disseminates public notices to more than 40 newspaper and radio/television stations in Alaska, to invite public participation in the Co-management Council Meetings. The Co-management Council provides ample opportunity during their meetings for people to comment and voice their concerns. Potential closing of the region to subsistence bird hunting has been discussed at the local Fish and Game Advisory Committee meetings, which are open to the public.

We also send **Federal Register** publications to the various conservation system units in Alaska, including the National Wildlife Refuge system in Alaska, the National Park Service, the Bureau of Land Management, and other conservation-oriented programs in Alaska.

Finally, the Co-management Council produces on an annual basis a user-friendly version of the regulations. This handbook is developed annually and dispersed to more than 26,000 households in eligible communities in Alaska. The handbooks reflect current regional and Statewide regulations as well as changes for the upcoming season.

The commenter asked if other management options, such as bag limits or quotas, were brought to the table for discussion prior to this exclusion decision. The options of going to bag limits or quotas were not discussed formally at the Co-management Council level. Relative to this proposal, however, these ideas have been discussed in other settings, and because of the spirit and intent of legitimizing the spring and summer harvest, such as sharing and passing down of customs and traditions, the notion of bag limits was dismissed because it did not fit into the local traditions of harvesting and sharing with others in a community. A parallel proposal, to close subsistence migratory bird hunting in a portion of the agricultural fields in Unit 20(D) for August 15–31 of each year, was brought forward and tabled for one year. The Co-management Council on April 6, 2006, opted to support ADFG's exclusion proposal instead of the option of a seasonal closure of the agricultural fields.

The commenter asked if there were any biological studies reflecting a negative impact on the waterfowl harvested in the area. Neither the Service nor ADFG has conducted any formal studies of the effects of spring/summer subsistence migratory bird hunting in the expanded exclusion area on either the local or nationwide waterfowl species populations. The Service has not conducted subsistence migratory bird harvest surveys of the communities that will be excluded under the exclusion area expansion during the 4 years of legal harvest (2003–06).

What Is Changing on the List of Birds Open to Harvest for 2007?

One comment was received stating continued opposition to maintaining 15 species of conservation concern on the list of birds open to harvest for 2007. These 15 species included: brant (*Banta bernicula*), king and common eiders (*Somateria spectabilis* and *millissma*), black scoter (*Melanitta nigra*), long-tailed duck (*Clangula hyemalis*), red-throated and yellow-billed loons (*Gavia stellata* and *adamsii*), black oystercatcher (*Haematopus bachmani*), bar-tailed godwit (*Limosa lapponica*), ruddy turnstone (*Arenaria interpres*), dunlin (*Calidris alpine*), red-legged kittiwake (*Rissa brevirostris*), Arctic and Aleutian terns (*Sterna paradisaea* and *aleutica*), and whiskered auklet (*Aethia pygmaea*).

Service Response: The Service originally addressed the Birds of Conservation Concern relative to the subsistence harvest starting in July 2003, with a final decision published in the April 2, 2004, **Federal Register** (69 FR 17318). The Birds of Conservation Concern list does not include waterfowl species, so the first five species listed in the comment were not addressed. Brant population trends were extensively discussed in 2005 and 2006, and regional closures were put in place starting in the 2006 season (71 FR 10404; February 28, 2006).

If the commentor desires to pursue subsistence harvest restrictions on the bird species listed above, the commenter could submit one or more formal proposals to change harvest regulations during the annual open period of November 1–December 15, 2007. The proposal(s) should include any new and updated species population data that would justify a change in the original Service decisions. The Co-management Council is a Co-management system comprised of Alaska Natives, and State and Federal representatives, acting as equals, that provide recommendations to the SRC on conservation issues relative to the subsistence harvest of migratory birds in Alaska.

One commenter requested that ivory gulls (*Pagophila eburnea*) be removed from the List of Birds Open to Harvest in 2007. The documented population decline was cited as justification as well as the recent recommendation to list the species as endangered by the Committee on the Status of Endangered Wildlife in Canada.

Service Response: Ivory gulls are spring and fall migrants along Alaska's North Slope and northern Bering Sea. A similar concern was raised in comments

on the 2004 proposed rule (69 FR 17318; April 2, 2004), but no formal proposals have ever been submitted for closure. Ivory gulls are not on the Birds of Conservation Concern list on any scale, because the list does not include casual migrants/non-breeders. We will continue to monitor circumpolar management recommendations and species population trends. The Arctic Council's Conservation of Arctic Flora and Fauna-Circumpolar Seabird Working Group will be completing an Ivory Gull Conservation Strategy in 2007 that will document this bird's current, global population status and identify conservation issues. Proposals to remove ivory gulls from the 2009 harvest regulations may be submitted during the annual open period of November 1–December 15, 2007.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act, 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.''

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this document is not a significant rule subject to OMB review under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The rule does not provide for new or additional hunting opportunities and therefore will have minimal economic or environmental impact. This rule benefits those participants who engage in the subsistence harvest of migratory birds in Alaska in two identifiable ways: first, participants receive the consumptive value of the birds harvested; and second, participants get the cultural benefit associated with the maintenance of a subsistence economy and way of life. The Service can estimate the consumptive value for birds harvested under this rule but does not have a dollar value for the cultural benefit of maintaining a subsistence economy and way of life.

The economic value derived from the consumption of the harvested migratory birds has been estimated using the results of a paper by Robert J. Wolfe titled, ''Subsistence Food Harvests in Rural Alaska, and Food Safety Issues'' (August 13, 1996). Using data from Wolfe's paper and applying it to the areas that will be included in this process, we determined a maximum economic value of $6 million annually. This is the estimated economic benefit of the consumptive part of this rule for participants in subsistence hunting. The cultural benefits of maintaining a subsistence economy and way of life can be of considerable value to the participants, and these benefits are not included in this figure.

(b) This rule will not create inconsistencies with other agencies' actions. We are the Federal agency responsible for the management of migratory birds, coordinating with the State of Alaska's Department of Fish and Game on management programs within Alaska. The State of Alaska is a member of the Alaska Migratory Bird Co-management Council.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The rule does not affect entitlement programs.

(d) This rule will not raise novel legal or policy issues. The subsistence harvest regulations will go through the same national regulatory process as the existing migratory bird hunting regulations in 50 CFR part 20.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed by the harvesters or persons within their local community.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, as discussed in the Executive Order 12866 section above.

(a) This rule will not have an annual effect on the economy of $100 million or more. It will legalize and regulate a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities being regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska would qualify as small businesses. We have no reason to believe that this rule will lead to a disproportionate distribution of benefits.

(b) This rule will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, does not have an impact on prices for consumers.

(c) This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It does not regulate the marketplace in any way to generate effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. A statement containing the information required by this Act is therefore not necessary. Participation on regional management bodies and the Co-management Council will require travel expenses for some Alaska Native organizations and local governments. In addition, they will assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In the March 28, 2000, Notice of Decision (65 FR 16405), we identified 12 partner organizations (Alaska Native non-profits and local governments) to administer the regional programs. The ADFG will also incur expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska will be required to provide technical staff

support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the ADFG to help offset their expenses.

Paperwork Reduction Act

This rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain information collection requirements. The Office of Management and Budget (OMB) has approved the collection of information associated with the voluntary annual household surveys that we use to determine levels of subsistence take. OMB has assigned OMB control number 1018–0124, which expires on January 31, 2010. We estimate the annual burden for this information collection to be 4,156 hours. We will seek OMB approval for other necessary information collections contained in 50 CFR part 92. 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.

Federalism Effects

As discussed in the Executive Order 12866 and Unfunded Mandates Reform Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. We worked with the State of Alaska on development of these regulations.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. Therefore, in accordance with Executive Order 12630, this rule does not have significant takings implications.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), and Executive Order 13175 (65 FR 67249, November 6, 2000), concerning consultation and coordination with Indian Tribal Governments, we have consulted with Alaska tribes and evaluated the rule for possible effects on tribes or trust resources, and have determined that there are no significant effects. The rule will legally recognize the subsistence harvest of migratory birds and their eggs for tribal members, as well as for other indigenous inhabitants.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of the Act'' and shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *'' Consequently, we consulted with the Anchorage Fish and Wildlife Field Office of the Service to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of spectacled or Steller's eiders or result in the destruction or adverse modification of their critical habitat. Findings from this consultation are included in the Biological Opinion on the Effects of the Proposed 2007 Spring and Summer Subsistence Harvest of Birds on the Threatened Steller's and Spectacled Eiders (dated March 30, 2007). The consultation concluded that the 2007 regulations are not likely to jeopardize the continued existence of either the Steller's or spectacled eider. Additionally, any modifications resulting from this consultation to regulatory measures previously proposed are reflected in this final rule.

National Environmental Policy Act Consideration

The annual regulations and options were considered in the Environmental Assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2007 Spring/Summer Harvest,'' issued August 15, 2006. Copies are available from the address indicated under the caption **ADDRESSES**.

Energy Supply, Distribution, or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule would allow only for traditional subsistence harvest and would improve conservation of migratory birds by allowing effective regulation of this harvest, it is not a significant regulatory action under Executive Order 13211. Consequently, it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action under Executive Order 13211 and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 92

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Subsistence, Treaties, Wildlife.

■ For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart A—General Provisions

■ 2. In subpart A, amend § 92.5 by:
■ a. Removing paragraph (a)(3); and
■ b. Revising the introductory text and paragraphs (a)(1), (a)(2) introductory text, (a)(2)(iv), and (b).

§ 92.5 Who is eligible to participate?

If you are a permanent resident of a village within a subsistence harvest area, you will be eligible to harvest migratory birds and their eggs for subsistence purposes during the applicable periods specified in subpart D of this part.

(a) * * *

(1) Any person may request the Co-management Council to recommend that an otherwise included area be excluded by submitting a petition stating how the area does not meet the criteria identified in paragraph (c) of this section. The Co-management Council will forward petitions to the appropriate regional management body. The Co-management Council will then consider each petition and will submit to the Service any recommendations to exclude areas from the spring and summer subsistence

harvest. The Service will publish any approved recommendations for public comment in the **Federal Register**.

(2) Based on petitions for inclusion recommended by the Co-management Council, the Service has added the following communities to the included areas under this part:

* * * * *

(iv) Southeast Alaska Region—Hoonah, Craig, Hydaburg, and Yakutat.

(b) *Excluded areas.* Excluded areas are not subsistence harvest areas and are closed to harvest. Residents of excluded areas are not eligible persons as defined in § 92.4. Communities located within the excluded areas provided in paragraphs (b)(2) and (b)(3) of this section may petition the Co-management Council through their regional management body for designation as a spring and summer subsistence harvest area. The petition must state how the community meets the criteria identified in paragraph (c) of this section. The Co-management Council will consider each petition and will submit to the Service any recommendations to designate a community as a spring and summer subsistence harvest area. The Service will publish any approved new designations of communities for public comment in the **Federal Register**. Excluded areas consist of the following:

(1) All areas outside of Alaska.

(2) Village areas located in Anchorage, the Matanuska-Susitna Borough, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, Southeast Alaska, and the Central Interior Excluded Area as described in paragraph (b)(3) of this section generally do not qualify for a spring and summer harvest.

(3) The Central Interior Excluded Area comprises the following: That portion of Unit 20(A) east of the Wood River drainage and south of Rex Trail, including the upper Wood River drainage south of its confluence with Chicken Creek; that portion of Unit 20(C) east of Denali National Park north to Rock Creek and east to Unit 20(A); and that portion of Unit 20(D) west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volmar drainage, including the Goodpaster River drainage. The following communities are within the Excluded Area: Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy, Ferry, and all residents of the formerly named Fairbanks North Star Borough Excluded Area.

* * * * *

Subpart C—General Regulations Governing Subsistence Harvest

■ 3. In subpart C, amend § 92.20 by:

■ a. Removing ''or'' from the end of paragraph (i);

■ b. Removing the period from, and adding in its place ''; or'' at, the end of paragraph (j); and

■ c. Adding a new paragraph (k) to read as set forth below.

§ 92.20 Methods and means.

* * * * *

(k) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited, as provided at 50 CFR 20.21(i) and 16 U.S.C. 704(b).

Subpart D—Annual Regulations Governing Subsistence Harvest

■ 4. In subpart D, revise §§ 92.31 through 92.33 to read as follows:

§ 92.31 Migratory bird species closed to subsistence harvest.

(a) Because of conservation concerns, you may not harvest birds or gather eggs from the following species in 2007:

(1) Spectacled Eider (*Somateria fischeri*).

(2) Steller's Eider (*Polysticta stelleri*).

(3) Emperor Goose (*Chen canagica*).

(4) Aleutian Canada Goose (*Branta canadensis leucopareia*)—Semidi Islands only.

(5) Yellow-billed Loons (*Gavia adamsii*)—Except that in the North Slope Region only, up to 20 yellow-billed loons total for the region may be inadvertently caught in fishing nets and kept for subsistence purposes.

(b) In addition, you may not gather eggs from the following species in 2007:

(1) Cackling Canada Goose (*Branta canadensis minima*).

(2) Black Brant (*Branta bernicla nigricans*)—in the Yukon/Kuskokwim Delta and North Slope regions only.

§ 92.32 Subsistence migratory bird species.

You may harvest birds or gather eggs from the following species, listed in taxonomic order, within all included areas. When birds are listed only to the species level, all subspecies existing in Alaska are open to harvest.

(a) Family Anatidae.

(1) Greater White-fronted Goose (*Anser albifrons*).

(2) Snow Goose (*Chen caerulescens*).

(3) Lesser Canada Goose (*Branta canadensis parvipes*).

(4) Taverner's Canada Goose (*Branta canadensis taverneri*).

(5) Aleutian Canada Goose (*Branta canadensis leucopareia*)—except in the Semidi Islands.

(6) Cackling Canada Goose (*Branta canadensis minima*)—except no egg gathering is permitted.

(7) Black Brant (*Branta bernicla nigricans*)—except no egg gathering is permitted in the Yukon/Kuskokwim Delta and the North Slope regions.

(8) Tundra Swan (*Cygnus columbianus*)—except in Units 9(D) and 10.

(9) Gadwall (*Anas strepera*).

(10) Eurasian Wigeon (*Anas penelope*).

(11) American Wigeon (*Anas americana*).

(12) Mallard (*Anas platyrhynchos*).

(13) Blue-winged Teal (*Anas discors*).

(14) Northern Shoveler (*Anas clypeata*).

(15) Northern Pintail (*Anas acuta*).

(16) Green-winged Teal (*Anas crecca*).

(17) Canvasback (*Aythya valisineria*).

(18) Redhead (*Aythya americana*).

(19) Ring-necked Duck (*Aythya collaris*).

(20) Greater Scaup (*Aythya marila*).

(21) Lesser Scaup (*Aythya affinis*).

(22) King Eider (*Somateria spectabilis*).

(23) Common Eider (*Somateria mollissima*).

(24) Harlequin Duck (*Histrionicus histrionicus*).

(25) Surf Scoter (*Melanitta perspicillata*).

(26) White-winged Scoter (*Melanitta fusca*).

(27) Black Scoter (*Melanitta nigra*).

(28) Long-tailed Duck (*Clangula hyemalis*).

(29) Bufflehead (*Bucephala albeola*).

(30) Common Goldeneye (*Bucephala clangula*).

(31) Barrow's Goldeneye (*Bucephala islandica*).

(32) Hooded Merganser (*Lophodytes cucullatus*).

(33) Common Merganser (*Mergus merganser*).

(34) Red-breasted Merganser (*Mergus serrator*).

(b) Family Gaviidae.

(1) Red-throated Loon (*Gavia stellata*).

(2) Arctic Loon (*Gavia arctica*).

(3) Pacific Loon (*Gavia pacifica*).

(4) Common Loon (*Gavia immer*).

(5) Yellow-billed Loon (*Gavia adamsii*)—In the North Slope Region only, a total of up to 20 yellow-billed loons inadvertently caught in fishing nets may be kept for subsistence purposes.

(c) Family Podicipedidae.

(1) Horned Grebe (*Podiceps auritus*).

(2) Red-necked Grebe (*Podiceps grisegena*).

(d) Family Procellariidae.

(1) Northern Fulmar (*Fulmarus glacialis*).

(2) [Reserved].
(e) Family Phalacrocoracidae.
(1) Double-crested Cormorant (*Phalacrocorax auritus*).
(2) Pelagic Cormorant (*Phalacrocorax pelagicus*).
(f) Family Gruidae.
(1) Sandhill Crane (*Grus canadensis*).
(2) [Reserved].
(g) Family Charadriidae.
(1) Black-bellied Plover (*Pluvialis squatarola*).
(2) Common Ringed Plover (*Charadrius hiaticula*).
(h) Family Haematopodidae.
(1) Black Oystercatcher (*Haematopus bachmani*).
(2) [Reserved].
(i) Family Scolopacidae.
(1) Greater Yellowlegs (*Tringa melanoleuca*).
(2) Lesser Yellowlegs (*Tringa flavipes*).
(3) Spotted Sandpiper (*Actitis macularia*).
(4) Bar-tailed Godwit (*Limosa lapponica*).
(5) Ruddy Turnstone (*Arenaria interpres*).
(6) Semipalmated Sandpiper (*Calidris pusilla*).
(7) Western Sandpiper (*Calidris mauri*).
(8) Least Sandpiper (*Calidris minutilla*).
(9) Baird's Sandpiper (*Calidris bairdii*).
(10) Sharp-tailed Sandpiper (*Calidris acuminata*).
(11) Dunlin (*Calidris alpina*).
(12) Long-billed Dowitcher (*Limnodromus scolopaceus*).
(13) Common Snipe (*Gallinago gallinago*).
(14) Red-necked phalarope (*Phalaropus lobatus*).
(15) Red phalarope (*Phalaropus fulicaria*).
(j) Family Laridae.
(1) Pomarine Jaeger (*Stercorarius pomarinus*).
(2) Parasitic Jaeger (*Stercorarius parasiticus*).
(3) Long-tailed Jaeger (*Stercorarius longicaudus*).
(4) Bonaparte's Gull (*Larus philadelphia*).
(5) Mew Gull (*Larus canus*).
(6) Herring Gull (*Larus argentatus*).
(7) Slaty-backed Gull (*Larus schistisagus*).
(8) Glaucous-winged Gull (*Larus glaucescens*).
(9) Glaucous Gull (*Larus hyperboreus*).
(10) Sabine's Gull (*Xema sabini*).
(11) Black-legged Kittiwake (*Rissa tridactyla*).
(12) Red-legged Kittiwake (*Rissa brevirostris*).
(13) Ivory Gull (*Pagophila eburnea*).
(14) Arctic Tern (*Sterna paradisaea*).
(15) Aleutian Tern (*Sterna aleutica*).
(k) Family Alcidae.
(1) Common Murre (*Uria aalge*).
(2) Thick-billed Murre (*Uria lomvia*).
(3) Black Guillemot (*Cepphus grylle*).
(4) Pigeon Guillemot (*Cepphus columba*).
(5) Cassin's Auklet (*Ptychoramphus aleuticus*).
(6) Parakeet Auklet (*Aethia psittacula*).
(7) Least Auklet (*Aethia pusilla*).
(8) Whiskered Auklet (*Aethia pygmaea*).
(9) Crested Auklet (*Aethia cristatella*).
(10) Rhinoceros Auklet (*Cerorhinca monocerata*).
(11) Horned Puffin (*Fratercula corniculata*).
(12) Tufted Puffin (*Fratercula cirrhata*).
(l) Family Strigidae.
(1) Great Horned Owl (*Bubo virginianus*).
(2) Snowy Owl (*Nyctea scandiaca*).

§ 92.33 Region-specific regulations.

The 2007 season dates for the eligible subsistence harvest areas are as follows:
(a) Aleutian/Pribilof Islands Region.
(1) Northern Unit (Pribilof Islands):
(i) Season: April 2–June 30.
(ii) Closure: July 1–August 31.
(2) Central Unit (Aleut Region's eastern boundary on the Alaska Peninsula westward to and including Unalaska Island):
(i) Season: April 2–June 15 and July 16–August 31.
(ii) Closure: June 16–July 15.
(iii) Special Black Brant Season Closure: August 16–August 31, only in Izembek and Moffet lagoons.
(iv) Special Tundra Swan Closure: All hunting and egg gathering closed in units 9(D) and 10.
(3) Western Unit (Umnak Island west to and including Attu Island):
(i) Season: April 2–July 15 and August 16–August 31.
(ii) Closure: July 16–August 15.
(b) Yukon/Kuskokwim Delta Region.
(1) Season: April 2–August 31.
(2) Closure: 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with local subsistence users, field biologists, and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.
(3) Special Black Brant and Cackling Goose Season Hunting Closure: From the period when egg laying begins until young birds are fledged. Closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.
(4) Special Area Closure:
(i) The following described goose nesting colonies are closed to all hunting and egg gathering from the period of nest initiation until young birds are fledged:
(A) Kokechik Bay Colony—bounded by 61.61° N to 61.67° N and 165.83° W to 166.08° W;
(B) Tutakoke River Colony—bounded by 61.20° N to 61.28° N and 165.08° W to 165.13° W;
(C) Kigigak Island Colony—bounded by island's edge;
(D) Baird Peninsula Colony—bounded by 60.87° N to 60.91° N and 164.65° W to 165.80° W; and
(E) Baird Island Colony—bounded by island's edge.
(ii) Closure dates to be announced by the Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.
(c) Bristol Bay Region.
(1) Season: April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.
(2) Closure: June 15–July 15 (general season); July 16–August 31 (seabird egg gathering).
(d) Bering Strait/Norton Sound Region.
(1) Stebbins/St. Michael Area (Point Romanof to Canal Point):
(i) Season: April 15–June 14 and July 16–August 31.
(ii) Closure: June 15–July 15.
(2) Remainder of the region:
(i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.
(ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.
(e) Kodiak Archipelago Region, except for the Kodiak Island roaded area, is closed to the harvesting of migratory

birds and their eggs. The closed area consists of all lands and waters (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larson Bay. Waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

(1) Season: April 2–June 20 and July 22–August 31; egg gathering: May 1–June 20 only.

(2) Closure: June 21–July 21.

(f) Northwest Arctic Region.

(1) Season: April 2–June 9 and August 15–August 31 (hunting in general); waterfowl egg gathering May 20–June 9 only; seabird egg gathering July 3–July 12 only; hunting molting/non-nesting waterfowl July 1–July 31 only.

(2) Closure: June 10–August 14, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) North Slope Region.

(1) Southern Unit (Southwestern North Slope regional boundary east to Peard Bay, everything west of the longitude line 158°30′ W and south of the latitude line 70°45′ N to the west bank of the Ikpikpuk River, and everything south of the latitude line 69°45′ N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) Closure: June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(2) Northern Unit (At Peard Bay, everything east of the longitude line 158°30′ W and north of the latitude line 70°45′ N to west bank of the Ikpikpuk River, and everything north of the latitude line 69°45′ N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 6–June 6 and July 7–August 31 for king and common eiders and April 2–June 15 and July 16–August 31 for all other birds.

(ii) Closure: June 7–July 6 for king and common eiders; June 16–July 15 for all other birds.

(3) Eastern Unit (East of eastern bank of the Sagavanirktok River):

(i) Season: April 2–June 19 and July 20–August 31.

(ii) Closure: June 20–July 19.

(4) All Units: yellow-billed loons. Annually, up to 20 yellow-billed loons total for the region may be caught inadvertently in subsistence fishing nets in the North Slope Region and kept for subsistence use. Individuals must report each yellow-billed loon inadvertently caught while subsistence gill net fishing to the North Slope Borough Department of Wildlife Management by the end of the season.

(h) Interior Region.

(1) Season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only.

(2) Closure: June 15–July 15.

(i) Upper Copper River (Harvest Area: State of Alaska Game Management Units 11 and 13) (Eligible communities: Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) Season: April 15–May 26 and June 27–August 31.

(2) Closure: May 27–June 26.

(3) The Copper River Basin communities listed above also documented traditional use harvesting birds in Unit 12, making them eligible to hunt in this unit using the seasons specified in paragraph (h) of this section.

(j) Gulf of Alaska Region.

(1) Prince William Sound Area (Harvest area: Unit 6 [D]), (Eligible Chugach communities: Chenega Bay, Tatitlek).

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(2) Kachemak Bay Area (Harvest area: Unit 15[C] South of a line connecting the tip of Homer Spit to the mouth of Fox River) (Eligible Chugach Communities: Port Graham, Nanwalek).

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(k) Cook Inlet (Harvest area: portions of Unit 16[B] as specified below) (Eligible communities: Tyonek only).

(1) Season: April 2–May 31—That portion of Unit 16(B) south of the Skwentna River and west of the Yentna River, and August 1–31—That portion of Unit 16(B) south of the Beluga River, Beluga Lake, and the Triumvirate Glacier.

(2) Closure: June 1–July 31.

(l) Southeast Alaska.

(1) Community of Hoonah (Harvest area: National Forest lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting [50 CFR Part 100.3]).

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(2) Communities of Craig and Hydaburg (Harvest area: small islands and adjacent shoreline of western Prince of Wales Island from Point Baker to Cape Chacon, but also including Coronation and Warren islands).

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay [Icy Cape to Pt. Riou], and coastal lands and islands bordering the Gulf of Alaska from Pt. Manby southeast to Dry Bay).

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

Dated: March 30, 2007.

Todd Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–6667 Filed 4–10–07; 8:45 am]

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Federal Register

Wednesday,
April 11, 2007

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting: Alaska; 2007–08 Spring/Summer Subsistence Harvest Regulations; Indian Tribal Proposals and Requests; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AV12

Migratory Bird Hunting; Proposed 2007–08 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals and Requests for 2008 Spring/Summer Migratory Bird Subsistence Harvest Proposals in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service or we) proposes to establish annual hunting regulations for certain migratory game birds for the 2007–08 hunting season. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides the regulatory schedule, describes the proposed regulatory alternatives for the 2007–08 duck hunting seasons, requests proposals from Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands, and requests proposals for the 2008 spring/summer migratory bird subsistence season in Alaska. Migratory game bird hunting seasons provide hunting opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

DATES: You must submit comments on the proposed regulatory alternatives for the 2007–08 duck hunting seasons and the draft environmental assessment for the take of Lower Colorado River Valley Population of sandhill cranes by May 15, 2007. Following later **Federal Register** documents, you will be given an opportunity to submit comments for proposed early-season frameworks by July 31, 2007, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2007. Tribes must submit proposals and related comments by June 1, 2007. Proposals from the Co-management Council for the 2008 spring/summer migratory bird subsistence harvest season must be submitted to the Flyway Councils and the Service by June 15, 2007.

ADDRESSES: Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 4107, Arlington Square Building, 4501 North Fairfax Drive, Arlington, Virginia. Proposals for the 2008 spring/summer migratory bird subsistence season in Alaska should be sent to the Executive Director of the Co-management Council, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503, or fax to (907) 786–3306 or email to *ambcc@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, at: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714. For information on the migratory bird subsistence season in Alaska, contact Fred Armstrong, (907) 786–3887, or Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Background and Overview

Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when ''hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any * * * bird, or any part, nest, or egg'' of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are written after giving due regard to ''the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds' and are updated annually (16 U.S.C. 704(a)). This responsibility has been delegated to the U.S. Fish and Wildlife Service (Service) of the Department of the Interior as the lead Federal agency for managing and conserving migratory birds in the United States.

The Service develops migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. Acknowledging regional differences in hunting conditions, the Service has administratively divided the nation into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State and Province in that Flyway. The Flyway Councils, established through the International Association of Fish and Wildlife Agencies (IAFWA), also assist in researching and providing migratory game bird management information for Federal, State, and Provincial Governments, as well as private conservation agencies and the general public.

The process for adopting migratory game bird hunting regulations, located at 50 CFR 20, is constrained by three primary factors. Legal and administrative considerations dictate how long the rulemaking process will last. Most importantly, however, the biological cycle of migratory game birds controls the timing of data-gathering activities and thus the dates on which these results are available for consideration and deliberation.

The process includes two separate regulations-development schedules, based on early and late hunting season regulations. Early hunting seasons pertain to all migratory game bird species in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; migratory game birds other than waterfowl (i.e., dove, woodcock, etc.); and special early waterfowl seasons, such as teal or resident Canada geese. Early hunting seasons generally begin prior to October 1. Late hunting seasons generally start on or after October 1 and include most waterfowl seasons not already established.

There are basically no differences in the processes for establishing either early or late hunting seasons. For each cycle, Service biologists gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. Because the Service is required to take abundance of migratory game birds and other factors into consideration, the Service undertakes a number of surveys throughout the year in conjunction with Service Regional Offices, the Canadian Wildlife Service, and State and Provincial wildlife-management agencies. To determine the appropriate frameworks for each species, we consider factors such as population size and trend, geographical distribution,

annual breeding effort, the condition of breeding and wintering habitat, the number of hunters, and the anticipated harvest.

After frameworks, or outside limits, are established for season lengths, bag limits, and areas for migratory game bird hunting, migratory game bird management becomes a cooperative effort of State and Federal governments. After Service establishment of final frameworks for hunting seasons, the States may select season dates, bag limits, and other regulatory options for the hunting seasons. States may always be more conservative in their selections than the Federal frameworks but never more liberal.

Notice of Intent To Establish Open Seasons

This notice announces our intent to establish open hunting seasons and daily bag and possession limits for certain designated groups or species of migratory game birds for 2007–08 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands, under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K of 50 CFR part 20.

For the 2007–08 migratory game bird hunting season, we will propose regulations for certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, moorhens, and gallinules); and Scolopacidae (woodcock and snipe). We describe these proposals under Proposed 2007–08 Migratory Game Bird Hunting Regulations (Preliminary) in this document. We published definitions of waterfowl flyways and mourning dove management units, as well as a description of the data used in and the factors affecting the regulatory process, in the March 14, 1990, **Federal Register** (55 FR 9618).

Regulatory Schedule for 2007–08

This document is the first in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations. We will publish additional supplemental proposals for public comment in the **Federal Register** as population, habitat, harvest, and other information become available. Because of the late dates when certain portions of these data become available, we anticipate abbreviated comment periods on some proposals. Special circumstances limit the amount of time we can allow for public comment on these regulations.

Specifically, two considerations compress the time for the rulemaking process: The need, on one hand, to establish final rules early enough in the summer to allow resource agencies to select and publish season dates and bag limits prior to the beginning of hunting seasons and, on the other hand, the lack of current status data on most migratory game birds until later in the summer. Because the regulatory process is strongly influenced by the times when information is available for consideration, we divide the regulatory process into two segments: Early seasons and late seasons (further described and discussed under the **Background and Overview** section).

Major steps in the 2007–08 regulatory cycle relating to open public meetings and **Federal Register** notifications are illustrated in the diagram at the end of this proposed rule. All publication dates of **Federal Register** documents are target dates.

All sections of this and subsequent documents outlining hunting frameworks and guidelines are organized under numbered headings. These headings are:

1. Ducks
   - A. General Harvest Strategy
   - B. Regulatory Alternatives
   - C. Zones and Split Seasons
   - D. Special Seasons/Species Management
   - i. September Teal Seasons
   - ii. September Teal/Wood Duck Seasons
   - iii. Black ducks
   - iv. Canvasbacks
   - v. Pintails
   - vi. Scaup
   - vii. Mottled ducks
   - viii. Youth Hunt
2. Sea Ducks
3. Mergansers
4. Canada Geese
   - A. Special Seasons
   - B. Regular Seasons
   - C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Mourning Doves
17. White-winged and White-tipped Doves
18. Alaska
19. Hawaii
20. Puerto Rico
21. Virgin Islands
22. Falconry
23. Other

Later sections of this and subsequent documents will refer only to numbered items requiring your attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

We will publish final regulatory alternatives for the 2007–08 duck hunting seasons in early June. We will publish proposed early season frameworks in mid-July and late season frameworks in mid-August. We will publish final regulatory frameworks for early seasons on or about August 17, 2007, and those for late seasons on or about September 14, 2007.

Request for 2008 Spring/Summer Migratory Bird Subsistence Harvest Proposals in Alaska

Background

The 1916 Convention for the Protection of Migratory Birds between the United States and Great Britain (for Canada) established a closed season for the taking of migratory birds between March 10 and September 1. Residents of northern Alaska and Canada traditionally harvested migratory birds for nutritional purposes during the spring and summer months. The governments of Canada, Mexico, and the United States recently amended the 1916 Convention and the subsequent 1936 Mexico Convention for the Protection of Migratory Birds and Game Mammals. The amended treaties provide for the legal subsistence harvest of migratory birds and their eggs in Alaska and Canada during the closed season.

On August 16, 2002, we published in the **Federal Register** (67 FR 53511) a final rule that established procedures for incorporating subsistence management into the continental migratory bird management program. These regulations, developed under a new co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives, established an annual procedure to develop harvest guidelines for implementation of a spring/summer migratory bird subsistence harvest. Eligibility and inclusion requirements necessary to participate in the spring/summer migratory bird subsistence season in Alaska are outlined in 50 CFR part 92.

This proposed rule calls for proposals for regulations that will expire on August 31, 2008, for the spring/summer subsistence harvest of migratory birds in Alaska. Each year, seasons will open on

or after March 11 and close prior to September 1.

Alaska Spring/Summer Subsistence Harvest Proposal Procedures

We will publish details of the Alaska spring/summer subsistence harvest proposals in later **Federal Register** documents under 50 CFR part 92. The general relationship to the process for developing national hunting regulations for migratory game birds is as follows:

(a) *Alaska Migratory Bird Co-Management Council.* Proposals may be submitted by the public to the Co-management Council during the period of November 1–December 15, 2007, to be acted upon for the 2008 migratory bird subsistence harvest season. Proposals should be submitted to the Executive Director of the Co-management Council, listed above under the caption **ADDRESSES.**

(b) *Flyway Councils.* (1) Proposed 2008 regulations recommended by the Co-management Council will be submitted to all Flyway Councils for review and comment. The Council's recommendations must be submitted prior to the Service Regulations Committee's last regular meeting of the calendar year in order to be approved for spring/summer harvest beginning March 11 of the following calendar year.

(2) Alaska Native representatives may be appointed by the Co-management Council to attend meetings of one or more of the four Flyway Councils to discuss recommended regulations or other proposed management actions.

(c) *Service regulations committee.* Proposed annual regulations recommended by the Co-management Council will be submitted to the Service Regulations Committee (SRC) for their review and recommendation to the Service Director. Following the Service Director's review and recommendation, the proposals will be forwarded to the Department of the Interior for approval. Proposed annual regulations will then be published in the **Federal Register** for public review and comment, similar to the annual migratory game bird hunting regulations. Final spring/summer regulations for Alaska will be published in the **Federal Register** in the preceding fall.

Because of the time required for review by us and the public, proposals from the Co-management Council for the 2008 spring/summer migratory bird subsistence harvest season must be submitted to the Flyway Councils and the Service by June 15, 2007, for Council comments and Service action at the late-season SRC meeting.

Review of Public Comments

This proposed rulemaking contains the proposed regulatory alternatives for the 2007–08 duck hunting seasons. This proposed rulemaking also describes other recommended changes or specific preliminary proposals that vary from the 2006–07 final frameworks (see August 29, 2006, **Federal Register** (71 FR 51406) for early seasons and September 22, 2006, **Federal Register** (71 FR 55654) for late seasons) and issues requiring early discussion, action, or the attention of the States or tribes. We will publish responses to all proposals and written comments when we develop final frameworks for the 2007–08 season. We seek additional information and comments on the recommendations in this proposed rule.

Consolidation of Notices

For administrative purposes, this document consolidates the notice of intent to establish open migratory game bird hunting seasons, the request for tribal proposals, and the request for Alaska migratory bird subsistence seasons with the preliminary proposals for the annual hunting regulations-development process. We will publish the remaining proposed and final rulemaking documents separately. For inquiries on tribal guidelines and proposals, tribes should contact the following personnel:

Region 1 (California, Idaho, Nevada, Oregon, Washington, Hawaii, and the Pacific Islands)—Brad Bortner, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; (503) 231–6164.

Region 2 (Arizona, New Mexico, Oklahoma, and Texas)—Jeff Haskins, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103; (505) 248–7885.

Region 3 (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin)—Steve Wilds, U.S. Fish and Wildlife Service, Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111–4056; (612) 713–5432.

Region 4 (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico/Virgin Islands, South Carolina, and Tennessee)—David Viker, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; (404) 679–4000.

Region 5 (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia)—Diane Pence, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; (413) 253–8576.

Region 6 (Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming)—Stephanie Jones, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Building, Denver, Colorado 80225; (303) 236–8145.

Region 7 (Alaska)—Russ Oates, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503; (907) 786–3423.

Requests for Tribal Proposals

Background

Beginning with the 1985–86 hunting season, we have employed guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467) to establish special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. We developed these guidelines in response to tribal requests for our recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members throughout their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, tribal regulations established under the guidelines must be consistent with the annual March 10 to September 1 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Convention). The guidelines are applicable to those tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. They also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such

hunting, or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands.

Tribes usually have the authority to regulate migratory game bird hunting by nonmembers on Indian-owned reservation lands, subject to our approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing migratory bird hunting by non-Indians on these lands. In such cases, we encourage the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a tribe and State with the aim of facilitating an accord. We also will consult jointly with tribal and State officials in the affected States where tribes may wish to establish special hunting regulations for tribal members on ceded lands. It is incumbent upon the tribe and/or the State to request consultation as a result of the proposal being published in the **Federal Register**. We will not presume to make a determination, without being advised by either a tribe or a State, that any issue is or is not worthy of formal consultation.

One of the guidelines provides for the continuation of tribal members' harvest of migratory game birds on reservations where such harvest is a customary practice. We do not oppose this harvest, provided it does not take place during the closed season required by the Convention, and it is not so large as to adversely affect the status of the migratory game bird resource. Since the inception of these guidelines, we have reached annual agreement with tribes for migratory game bird hunting by tribal members on their lands or on lands where they have reserved hunting rights. We will continue to consult with tribes that wish to reach a mutual agreement on hunting regulations for on-reservation hunting by tribal members.

Tribes should not view the guidelines as inflexible. We believe that they provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while also ensuring that the migratory game bird resource receives necessary protection. The conservation of this important international resource is paramount. Use of the guidelines is not required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Details Needed in Tribal Proposals

Tribes that wish to use the guidelines to establish special hunting regulations for the 2007–08 migratory game bird hunting season should submit a proposal that includes:

(1) The requested migratory game bird hunting season dates and other details regarding the proposed regulations;

(2) Harvest anticipated under the proposed regulations;

(3) Methods that will be employed to measure or monitor harvest (mail-questionnaire survey, bag checks, etc.);

(4) Steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would seriously impact the migratory game bird resource; and

(5) Tribal capabilities to establish and enforce migratory game bird hunting regulations.

A tribe that desires the earliest possible opening of the migratory game bird season for nontribal members should specify this request in its proposal, rather than request a date that might not be within the final Federal frameworks. Similarly, unless a tribe wishes to set more restrictive regulations than Federal regulations will permit for nontribal members, the proposal should request the same daily bag and possession limits and season length for migratory game birds that Federal regulations are likely to permit the States in the Flyway in which the reservation is located.

Tribal Proposal Procedures

We will publish details of tribal proposals for public review in later **Federal Register** documents. Because of the time required for review by us and the public, Indian tribes that desire special migratory game bird hunting regulations for the 2007–08 hunting season should submit their proposals as soon as possible, but no later than June 1, 2007.

Tribes should direct inquiries regarding the guidelines and proposals to the appropriate Service Regional Office listed above under the caption *Consolidation of Notices.* Tribes that request special migratory game bird hunting regulations for tribal members on ceded lands should send a courtesy copy of the proposal to officials in the affected State(s).

Public Comments Solicited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. We invite interested persons to participate in this rulemaking by submitting written comments to the address indicated under the caption **ADDRESSES.**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's Division of Migratory Bird Management office in room 4107, 4501 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date in any final rules.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES.**

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March

9, 2006, **Federal Register** (71 FR 12216). We have prepared a scoping report summarizing the scoping comments and scoping meetings. The report is available by either writing to the address indicated under **ADDRESSES** or by viewing on our Web site at *http://fws.gov/migratorybirds*.

Endangered Species Act Consideration

Prior to issuance of the 2007–08 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–96, updated in 1998 and updated again in 2004. It is further discussed below under the heading **Regulatory Flexibility Act.** Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 to $1,064 million, with a mid-point estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/SpecialTopics/EconomicAnalysis-Final-2004.pdf*.

Executive Order 12866 also requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under **Executive Order 12866.** This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *htttp://www.fws.gov/migratorybirds/reports/SpecialTopics/EconomicAnalysis-Final-2004.pdf*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the surveys associated with the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 2/29/2008). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Survey and assigned clearance number 1018–0023 (expires 11/30/2007). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population. Lastly, OMB has approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska. The OMB control number for the information collection is 1018–0124 (expires 1/31/2010). A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 et seq., that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any

property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2007–08 hunting season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742 a–j.

Dated: March 21, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Proposed 2007–08 Migratory Game Bird Hunting Regulations (Preliminary)

Pending current information on populations, harvest, and habitat conditions, and receipt of recommendations from the four Flyway Councils, we may defer specific regulatory proposals. At this time, we are proposing no changes from the final 2006–07 frameworks established on August 29 and September 22, 2006 (71 FR 51406 and 71 FR 55654). Other issues requiring early discussion, action, or the attention of the States or tribes are contained below:

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. Only those containing substantial recommendations are discussed below.

A. General Harvest Strategy

We propose to continue use of adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2007–08 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts, as well as providing a mechanism for reducing that uncertainty over time. The current AHM protocol is used to evaluate four alternative regulatory levels based on the population status of mallards (special hunting restrictions are enacted for species of special concern, such as canvasbacks, scaup, and pintails).

In recent years, the prescribed regulatory alternative for the Pacific, Central, and Mississippi Flyways has been based on the status of mallards and breeding-habitat conditions in central North America (Federal survey strata 1–18, 20–50, and 75–77, and State surveys in Minnesota, Wisconsin, and Michigan). For the 2007 hunting season, however, we are considering setting hunting regulations in the Pacific Flyway based on the status and dynamics of a newly defined stock of ''western'' mallards. For now, western mallards would be defined as those breeding in Alaska (as based on federal surveys in strata 1–12), and in California and Oregon (as based on state-conducted surveys). Efforts to improve survey designs in Washington State and British Columbia are ongoing, and mallards breeding in these areas would be included in regulatory assessments when a sufficient time-series of abundance estimates is available for analysis. Predicting changes in the abundance of western mallards due to harvest and uncontrolled environmental factors would be based on a model of density-dependent growth, with appropriate allowances for model uncertainty and the impact of hunting. Various harvest-management objective(s) for western mallards are being considered but, in any case, would not allow for a harvest higher than the estimated maximum sustainable yield. More specifics concerning this proposed change in AHM protocol are available on our website at *http://www.fws.gov/migratorybirds/mgmt/AHM/AHM-intro.htm* and will be provided in a supplemental proposed rule in May along with Flyway Council recommendations and comments. The final AHM protocol for the 2007–08 season will be detailed in the early-season proposed rule, which will be published in July (see **Schedule of Regulations Meetings and Federal Register Publications** at the end of this proposed rule for further information). Finally, since 2000, we have prescribed a regulatory alternative for the Atlantic Flyway based on the population status of mallards breeding in eastern North America (Federal survey strata 51–54 and 56, and State surveys in New England and the mid-Atlantic region). We are recommending a continuation of this protocol for the 2007–08 season.

We will propose a specific regulatory alternative for each of the Flyways during the 2007–08 season after survey information becomes available in late summer. More information on AHM is located at *http://www.fws.gov/migratorybirds/mgmt/AHM/AHM-intro.htm*.

B. Regulatory Alternatives

The basic structure of the current regulatory alternatives for AHM was adopted in 1997. The alternatives remained largely unchanged until 2002, when we (based on recommendations from the Flyway Councils) extended framework dates in the ''moderate'' and ''liberal'' regulatory alternatives by changing the opening date from the Saturday nearest October 1 to the Saturday nearest September 24, and changing the closing date from the Sunday nearest January 20 to the last Sunday in January. These extended dates were made available with no associated penalty in season length or bag limits. At that time we stated our desire to keep these changes in place for 3 years to allow for a reasonable

opportunity to monitor the impacts of framework-date extensions on harvest distribution and rates of harvest prior to considering any subsequent use (67 FR 12501).

For 2007–08, we are proposing to maintain the same regulatory alternatives that were in effect last year (see accompanying table for specifics of the proposed regulatory alternatives). Alternatives are specified for each Flyway and are designated as ''RES'' for the restrictive, ''MOD'' for the moderate, and ''LIB'' for the liberal alternative. We will announce final regulatory alternatives in early June. Public comments will be accepted until May 15, 2007, and should be sent to the address under the caption **ADDRESSES**.

D. Special Seasons/Species Management

iii. Black Ducks

For several years we have consulted with the Atlantic and Mississippi Flyway Councils, the Canadian Wildlife Service, and provincial wildlife agencies in eastern Canada concerning the development of an international harvest strategy for black ducks. In November 2006, a working group of Federal, provincial, and State technicians expressed a desire to move forward with development of a strategy this year, with implementation to occur in 2008. The strategy would consist of a maximum harvest rate for the continental black duck population, as well as criteria for maintaining approximate parity in harvest between the two countries. Further consultations are required, however, to determine an acceptable upper limit to the overall harvest rate, procedures for determining whether the realized harvest rate is below this limit, procedures for determining whether the distribution of harvest between the countries is acceptable, and rules for changing regulations if the harvest-rate and parity criteria are not met. Based on the outcome of those consultations, we are planning to propose the specifics of a joint harvest strategy with Canada in the early-season proposed rule, which will be published in July (see **Schedule of Regulations Meetings and Federal Register Publications** at the end of this proposed rule for further information).

v. Pintails

In collaboration with scientists from the U.S. Geological Survey, progress has been made in the development of a compensatory harvest-mortality model for pintails. The model predicts that pintail survival during the period following the hunting season is density-dependent, and represents an alternative hypothesis about the effect of hunting mortality on pintail population change. We are considering the inclusion of a ''strong'' compensatory model as a competing model in the analytical framework used to prescribe harvest regulations under the current pintail harvest strategy. Presently, in the current pintail harvest strategy, hunting mortality is assumed to be ''additive'' to natural forms of mortality. Predictions of pintail population size derived from the additive and compensatory models will be compared to the results of past population surveys to determine the initial predictive reliability of each alternative model. These comparisons will be used to weight each model in a manner that reflects past predictive ability. Model weights determine the influence that the alternative harvest-mortality models will have on subsequent regulatory decisions. Model weights will be updated annually by comparing model predictions with survey results such that the model with greater predictive ability exerts greater influence in regulatory decisions over time. We remain committed to the development of a framework to inform pintail harvest management based on a formal, derived strategy and clearly articulated management objectives.

vi. Scaup

In 2006, we did not change scaup harvest regulations with the understanding that a draft harvest strategy would be available for Flyway Council review prior to the 2007 winter meetings (see September 22, 2007, **Federal Register**, 71 FR 55654). In response to this expectation, we have developed models to represent scaup population and harvest dynamics that rely on the available scaup monitoring information and account for uncertainties about factors affecting scaup population change. The details of the models and assessment methods used to derive a scaup harvest strategy were presented during the Winter Flyway Technical Section meetings and a summary is available at *http://www.fws.gov/migratorybirds/reports.* As part of the strategy-development process, we provide several example harvest strategies based on a range of potential harvest-management objectives in order to solicit feedback regarding the appropriate objective for scaup harvest management.

The final scaup harvest strategy will be detailed in the July early-season proposed rule (see **Schedule of Regulations Meetings and Federal Register Publications** at the end of this proposed rule for further information).

vii. Mottled Ducks

The Service and other agencies have been concerned about the status of mottled ducks since at least the late 1990's. This concern stems from negative trends in population survey data, loss and degradation of habitat, interbreeding with captive-reared and feral mallards, and increased harvest rates as the result of longer hunting seasons since 1997. In the past, we have expressed our desire to work with the States to develop a harvest-management strategy for mottled ducks. Since 2005, several workshops have been convened with State agencies, the U.S. Geological Survey, and others to discuss the status of mottled ducks, population structure and delineation, and to evaluate current monitoring programs and plan for the development of new population surveys. Major conclusions from these workshops are that mottled ducks should be managed as two separate stocks, a Florida stock and a Western Gulf Coast stock, and that the lack of a range-wide population survey for Western Gulf Coast mottled ducks is a significant impediment to management.

Although progress has been made toward development of monitoring systems to improve assessment capabilities for mottled ducks, we remain concerned about the status of mottled ducks across their range, especially in the Western Gulf Coast. Reasons for these concerns were mentioned previously. We will provide the Flyway Councils with analyses of harvest data that examine potential harvest restrictions to reduce harvest rates, should that be deemed necessary. We encourage the Flyway Councils to examine the status of mottled ducks and assess the potential need for any regulatory actions for the 2007–08 season.

9. Cranes

Greater and lesser (and Canadian) sandhill cranes are presently hunted in parts of their range and have been divided into management populations based on their geographic distribution during Fall and Winter. The Flyway Management Plan for the Lower Colorado River Valley Population (LCRVP) of sandhill cranes (Pacific Flyway Council 1983, revised in 1989, 1995) allows for hunting of this population when the wintering population exceeds 2,500 cranes. This population level has now been exceeded. In 2005, the Pacific Flyway Council proposed a limited open season on this population. In response to the Pacific Flyway Council's proposal, we stated in the August 29, 2006, **Federal**

Register (71 FR 51406) that while we were in general support of allowing a very limited, carefully controlled harvest of sandhill cranes from this population, we did not believe that this limited harvest was of immediate concern, and recommended that prior to initiating such a season, which would be the first time harvest from this population has been permitted, a more detailed harvest strategy be developed by the Flyway Council. We stated that this harvest strategy should be included as an appendix to the management plan prior to any hunting season being initiated. In further response to this proposal, we have now prepared a draft environmental assessment (DEA) considering the action to begin a limited harvest of sandhill cranes from the LCRVP by reviewing current management strategies and population objectives, and examining alternatives to current management programs.

Copies of the DEA can be obtained by writing Robert Trost, Pacific Flyway Representative, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 911 NE. 11th Avenue, Portland, Oregon 97232–4181. The DEA may also be viewed via the Fish and Wildlife Service home page at *http://fws.gov/migratorybirds.* Written comments should be sent to the address above. You must submit comments on the Draft Environmental Assessment by May 15, 2007.

16. Mourning Doves

Last year, we approved guidelines that will be used to guide zone/split seasons for doves (see July 28, 2006, **Federal Register**, 71 FR 43008) with implementation beginning in the 2007–08 season. The initial period will be 4 years (2007–2010); beginning in 2011, zoning will conform to a 5-year period.

Guidelines for Dove Zones and Split Seasons in the Eastern and Central Mourning Dove Management Units

1. A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent seasons may be selected for dove hunting.

2. States may select a zone/split option during an open season. It must remain in place for the following 5 years except that States may make a one-time change and revert back to their previous zone/split configuration in any year of the 5-year period. Formal approval will not be required, but States must notify the Service prior to making the change.

3. Zoning periods for dove hunting will conform to those years used for ducks, e.g., 2006–2010.

4. The zone/split configuration consists of two zones with the option for 3-way (3-segment) split seasons in one or both zones. As a grandfathered arrangement, Texas will have three zones with the option for 2-way (2-segment) split seasons in one, two, or all three zones.

5. States that do not wish to zone for dove hunting may split their seasons into no more than 3 segments.

We request that States notify us whether or not they plan to change their zone/split configurations for the upcoming 4-year period (2007–2010) by May 1, 2007.

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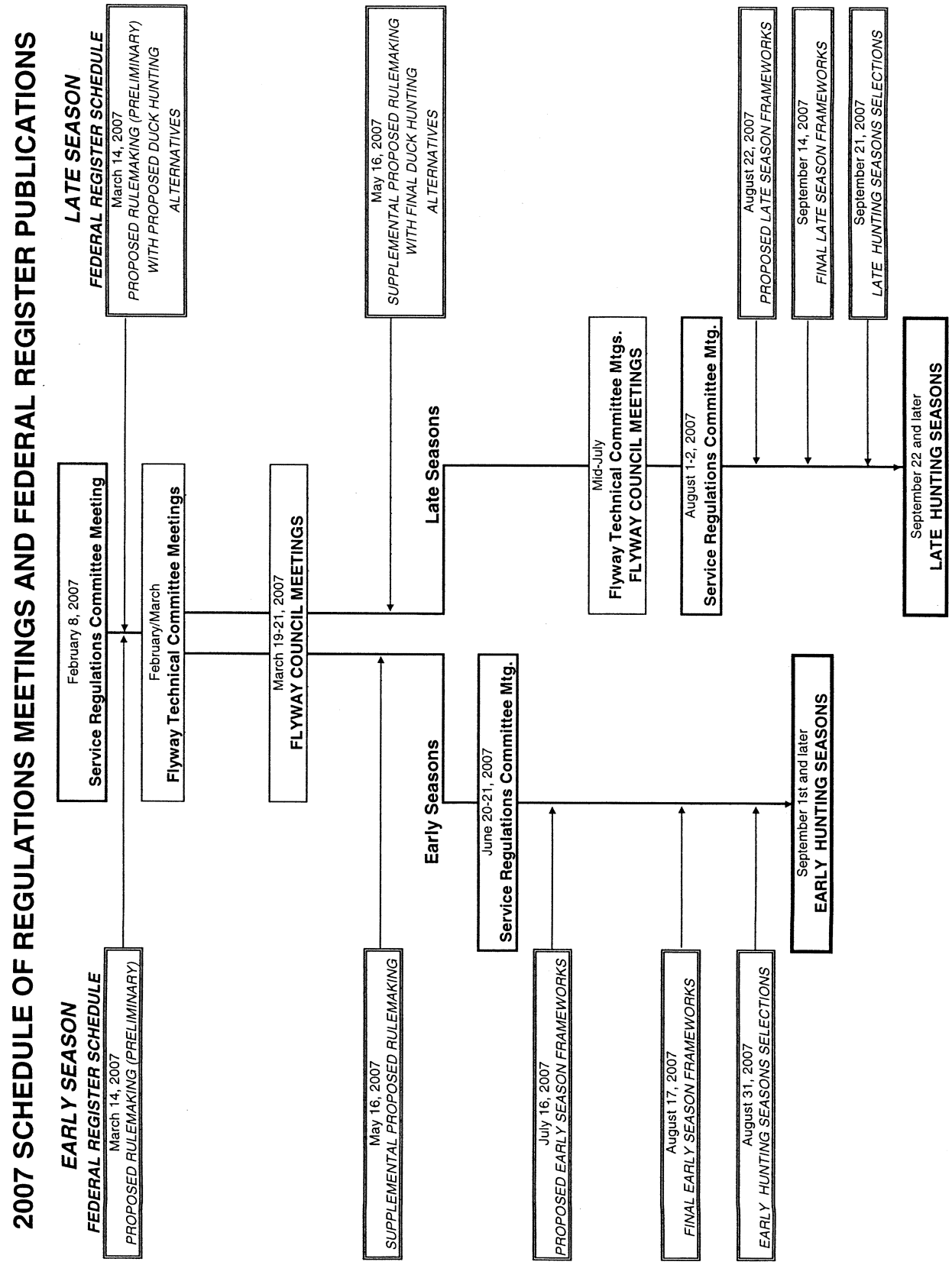
2007 SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS
EARLY SEASON
FEDERAL REGISTER SCHEDULE
March 14, 2007
PROPOSED RULEMAKING (PRELIMINARY)
May 16, 2007
SUPPLEMENTAL PROPOSED RULEMAKING
July 16, 2007
PROPOSED EARLY SEASON FRAMEWORKS
August 17, 2007
FINAL EARLY SEASON FRAMEWORKS
August 31, 2007
EARLY HUNTING SEASONS SELECTIONS
February 8, 2007
Service Regulations Committee Meeting
February/March
Flyway Technical Committee Meetings
March 19-21, 2007
FLYWAY COUNCIL MEETINGS
Early Seasons
June 20-21, 2007
Service Regulations Committee Mtg.
September 1st and later
EARLY HUNTING SEASONS
LATE SEASON
FEDERAL REGISTER SCHEDULE
March 14, 2007
PROPOSED RULEMAKING (PRELIMINARY)
WITH PROPOSED DUCK HUNTING
ALTERNATIVES
May 16, 2007
SUPPLEMENTAL PROPOSED RULEMAKING
WITH FINAL DUCK HUNTING
ALTERNATIVES
Late Seasons
Mid-July
Flyway Technical Committee Mtgs.
FLYWAY COUNCIL MEETINGS
August 1-2, 2007
Service Regulations Committee Mtg.
August 22, 2007
PROPOSED LATE SEASON FRAMEWORKS
September 14, 2007
FINAL LATE SEASON FRAMEWORKS
September 21, 2007
LATE HUNTING SEASONS SELECTIONS
September 22 and later
LATE HUNTING SEASONS

PROPOSED REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2007-08 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/ Possession Limit	3 6	6 12	6 12	3 6	6 12	6 12	3 6	6 12	6 12	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit would be 5-7 under the restrictive alternative, and 8-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1 - Jan. 26.

[FR Doc. 07–1750 Filed 4–10–07; 8:45 am]
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Federal Register

Wednesday,
April 11, 2007

Part IV

The President

Proclamation 8122—400th Anniversary of Jamestown, 2007

Federal Register
Vol. 72, No. 69
Wednesday, April 11, 2007

Presidential Documents

Title 3—

The President

Proclamation 8122 of April 6, 2007

400th Anniversary of Jamestown, 2007

By the President of the United States of America

A Proclamation

Four centuries ago, after a long journey, a small group of colonists stepped boldly onto the shores of the New World and established the first permanent English settlement in North America. During the 400th anniversary of Jamestown, America honors the early pioneers whose epic of endurance and courage started the story of our Nation.

The ideals that distinguish and guide the United States today trace back to the Virginia settlement where free enterprise, the rule of law, and the spirit of discovery took hold in the hearts and practices of the American people. Noble institutions and grand traditions were established in Jamestown. Amid tremendous difficulties, a determined few worked the land and expanded into the wilderness. Without knowing it, the colonists who built communities at Jamestown laid the foundation for a Nation that would become the ultimate symbol and force for freedom throughout the entire world.

Much has changed in the 400 years since that three-sided fort was raised on the banks of the James River. Today, we are a strong and growing Nation of more than 300 million, and we are blessed to live in a land of plenty during a time of great prosperity. The long struggle that started at Jamestown has inspired generations of Americans. Advancing the right to live, work, and worship in liberty is the mission that created our country, the honorable achievement of our ancestors, and the calling of our time.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim 2007 as the 400th Anniversary of Jamestown. I encourage all Americans to commemorate this milestone by honoring the courage of those who came before us, participating in appropriate programs and celebrations, and visiting this historic site with family and friends.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of April, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 07–1828
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Federal Register

Vol. 72, No. 69

Wednesday, April 11, 2007

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FEDERAL REGISTER PAGES AND DATE, APRIL

CFR PARTS AFFECTED DURING APRIL

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.

902.....18105

16 CFR

Proposed Rules:
313.....16875

17 CFR

30.....17989
140.....16269
145.....16269
200.....16934
232.....16934
240.....16934
249.....16934
Proposed Rules:
1.....15637, 18316
3.....15637, 18316
4.....15637, 18316
15.....15637, 18316
160.....16875
166.....15637, 18316
248.....16875

18 CFR

40.....16416
101.....16716, 17393
1310.....18118

20 CFR

404.....16720
416.....16720

21 CFR

179.....17394
520.....16270
524.....18118
558.....16270
803.....17397
814.....17397
820.....17397
821.....17397
822.....17397
866.....15828
874.....17397
886.....17397
1002.....17397
1005.....17397
1020.....17397
1300.....17401
1313.....17401
Proposed Rules:
179.....16291

22 CFR

126.....15830

23 CFR

Proposed Rules:
637.....17447

24 CFR

92.....16678
234.....16688

26 CFR

1.....16878, 17804
11.....16878
Proposed Rules:
1.....17814

28 CFR

500.....16271
501.....16271

30 CFR

Proposed Rules:
291.....17047
946.....17449, 17452

31 CFR

538.....15831
560.....15831

32 CFR

706.....18119
Proposed Rules:
232.....18157

33 CFR

100 .....15832, 17024, 18120, 18122
160.....17409
165 .....15834, 15837, 16275, 16726, 17024, 18124, 18126
Proposed Rules:
100 .....17062, 17456, 18170
117 .....15852, 16752, 17065
165 .....16754, 17458, 18172, 18174, 18176

34 CFR

200.....17748
300.....17748

36 CFR

Proposed Rules:
261.....15641
1192.....18179

37 CFR

Proposed Rules:
202.....16306

38 CFR

4.....16728
17.....18128
21.....16962

39 CFR

20.....16604
Proposed Rules:
111.....18179

40 CFR

52.....15839
62.....17025
174.....16277
180.....16281, 18128
261.....17027
Proposed Rules:
52.....17461
62.....17068
63.....16636
92.....15938
94.....15938
152.....16312, 18191
156.....16312, 18191
167.....16312, 18191
168.....16312, 18191
169.....16312, 18191
172.....16312, 18191
174.....16312, 18191
180.....17068
1033.....15938
1039.....15938
1042.....15938
1065.....15938
1068.....15938

41 CFR

302-17.....17410
Proposed Rules:
102-38.....15854

42 CFR

411.....17992
414.....17992

43 CFR

Proposed Rules:
10.....18192

44 CFR

67.....17413, 17426
Proposed Rules:
67.....17463

46 CFR

501.....15613

47 CFR

73.....16283
Proposed Rules:
73.....16315

49 CFR

23.....15614
26.....15614
211.....17433
571.....17236
585.....17236
1002.....17032
Proposed Rules:
544.....17465
1300.....16316
1313.....16316

50 CFR

17.....16284
92.....18318
270.....18105
622.....15617, 18134
648.....17806, 17807
679.....15848, 18135
Proposed Rules:
17.....15857, 16756
20.....18328
300.....17071
635.....16318
648 .....17076, 17085, 18193
660.....17469

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.

RULES GOING INTO EFFECT APRIL 11, 2007

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Almond and walnut crop provisions; published 3-12-07

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:

National school lunch, school breakfast, special milk, summer food service, and child and adult care food programs—

Children's free and reduced price and free milk eligibility information; disclosure; published 3-12-07

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Highly migratory species; published 3-12-07

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Tetraconazole; published 4-11-07

Water supply:

National primary and secondary drinking water regulations—

Analysis and sampling procedures; published 3-12-07

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Biological products:

Blood vessels recovered with organs and intended for use in organ transplantation; published 3-12-07

Human drugs:

Cold, cough, allergy, bronchodilator, and antiasthmatic products—

Nasal decongestant drug products final monograph amendment; published 10-11-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Resources and Services Administration

Biological products:

Blood vessels recovered with organs and intended for use in organ transplantation; published 3-12-07

INTERIOR DEPARTMENT

Fish and Wildlife Service

Migratory bird hunting:

Alaska; 2007 subsistence harvest regulations; published 4-11-07

TENNESSEE VALLEY AUTHORITY

Administrative cost recovery; exemptions elimination; published 4-11-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 3-7-07

Cessna; published 3-7-07

Reims Aviation S.A.; published 3-7-07

VETERANS AFFAIRS DEPARTMENT

Medical benefits:

Nursing home care of veterans in State homes; per diem payments; correction; published 4-11-07

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Acquisition regulations:

Personal services direct contracts; comments due by 4-16-07; published 2-13-07 [FR E7-02311]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Mushroom promotion, research, and information order; amendment; comments due by 4-18-07; published 3-19-07 [FR 07-01315]

Walnuts grown in California; comments due by 4-16-07; published 3-27-07 [FR E7-05312]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Monkfish; comments due by 4-19-07; published 3-20-07 [FR E7-05051]

West Coast States and Western Pacific fisheries—

Bigeye and yellowfin tuna; comments due by 4-16-07; published 2-15-07 [FR E7-02677]

COMMERCE DEPARTMENT

Patent and Trademark Office

Practice and procedure:

Trademark cases; filing requests for reconsideration of final office actions; requirements; comments due by 4-16-07; published 2-14-07 [FR E7-02519]

DEFENSE DEPARTMENT

Army Department

Law enforcement and criminal investigations:

Law enforcement reporting; comments due by 4-16-07; published 3-15-07 [FR E7-04513]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Contractor code of ethics and business conduct; comments due by 4-17-07; published 2-16-07 [FR 07-00698]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Qualifying small power production and cogeneration facilities; exemptions; comments due by 4-17-07; published 3-27-07 [FR E7-05285]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:

State operating permits programs—

New Jersey; comments due by 4-19-07; published 3-20-07 [FR E7-05026]

Air pollution; standards of performance for new stationary sources:

Large municipal waste combustors; reconsideration; comments due by 4-19-07; published 3-20-07 [FR E7-05022]

Air quality implementation plans; approval and promulgation; various States:

Wisconsin; comments due by 4-16-07; published 3-16-07 [FR E7-04771]

Hazardous waste program authorizations:

Vermont; comments due by 4-16-07; published 3-16-07 [FR E7-04774]

Toxic substances:

Lead; renovation, repair, and painting program; hazard exposure reduction; studies availability; comments due by 4-16-07; published 3-16-07 [FR E7-04869]

FEDERAL COMMUNICATIONS COMMISSION

Television broadcasting:

Cable Communications Policy Act; implementation—

Local franchising authority decisions; application filing requirement; comments due by 4-20-07; published 3-21-07 [FR E7-05118]

FEDERAL TRADE COMMISSION

Appliances, consumer; energy consumption and water use information in labeling and advertising:

Appliance labeling rule; comments due by 4-16-07; published 2-13-07 [FR 07-00613]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Contractor code of ethics and business conduct; comments due by 4-17-07; published 2-16-07 [FR 07-00698]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Orthopedic devices—

Non-invasive bone growth stimulator; reclassification; comments due by 4-17-07; published 1-17-07 [FR E7-00476]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Regattas and marine parades:

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S. 494/P.L. 110–17

NATO Freedom Consolidation Act of 2007 (Apr. 9, 2007; 121 Stat. 73)

Last List March 30, 2007

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