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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, June 12, 2007
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4279

RIN 0570–AA54

Business and Industry Guaranteed Loan Program; Correction

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulations which were published in the Federal Register on Monday, November 20, 2006 [71 FR 67032] regarding personal and corporate guarantees.

DATES: Effective on May 15, 2007.

FOR FURTHER INFORMATION CONTACT: David Lewis, Business and Industry Loan Servicing Branch, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3224, 1400 Independence Avenue, SW., Washington, DC 20250–3224, telephone (202) 690–0797, or by e-mail to *david.lewis@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was intended to require those owning a substantial stock ownership of at least 20 percent to provide a personal or corporate guarantee.

Need for Correction

As published, the final regulation contained an error, which may prove misleading and cause confusion for the public.

List of Subjects in 7 CFR Part 4279

Loan programs—Business and Industry—Rural Development assistant, rural areas.

■ Accordingly, 7 CFR part 4279 is corrected by making the following correcting amendment:

PART 4279—GUARANTEED LOANMAKING

■ 1. The authority citation for part 4279 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart B—Business and Industry Loans

■ 2. Revise paragraph (a) of § 4279.149 to read as follows:

§ 4279.149 Personal and corporate guarantee.

(a) Unconditional personal and corporate guarantees are part of the collateral for the loan, but are not considered in determining whether a loan is adequately secured for loanmaking purposes. Agency approved personal and corporate guarantees for the full term of the loan and at least equal to the guarantor's percent interest in the borrower, times the loan amount are required from those owning at least a 20 percent interest in the borrower, unless the lender documents to the Agency's satisfaction that collateral, equity, cashflow, and profitability indicate an above-average ability to repay the loan. The guarantors will execute an Agency approved unconditional guarantee form. When warranted by an Agency assessment of potential financial risk, Agency approved guarantees may also be required of parent, subsidiaries, or affiliated companies (owning less than a 20 percent interest in the borrower) and require security for any guarantee provided under this section.

* * * * *

Dated: April 30, 2007.

Jackie J. Gleason,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 07–2400 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30550; Amdt. No. 3218]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 15, 2007. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 15, 2007.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave., SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on May 4, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35, and 97.37 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, LDA w/GS, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, MLS, TLS, GLS, WAAS PA, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; § 97.35 COPTER SIAPs, § 97.37 Takeoff Minima and Obstacle Departure Procedures. Identified as follows:

** * * EFFECTIVE UPON PUBLICATION*

FDC date	State	City	Airport	FDC No.	Subject
03/15/07	VA	FRANKLIN	FRANKLIN MUNI-JOHN BEVERLY ROSE.	7/5464	VOR/DME RWY 27, AMDT 9C.
05/02/07	CA	SACRAMENTO	SACRAMENTO INTL	7/9886	RNAV (GPS) RWY 16L, ORIG–A.
05/02/07	CA	SACRAMENTO	SACRAMENTO INTL	7/9888	RNAV (GPS) RWY 16R, ORIG–B.
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[FR Doc. E7–9243 Filed 5–14–07; 8:45 am]
BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in June 2007. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: Effective June 1, 2007.

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

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

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

This amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during June 2007, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during June 2007, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during June 2007.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.14 percent for the first 20 years following the valuation date and 4.81 percent thereafter. These interest assumptions represent a decrease (from those in effect for May 2007) of 0.06 percent for the first 20 years following the valuation date and 0.06 percent for all years thereafter.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for May 2007. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

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

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during June 2007, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects

29 CFR Part 4022

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

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

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

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, Rate Set 164, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
164	6–1–07	7–1–07	3.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 164, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
164	6–1–07	7–1–07	3.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

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

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

■ 5. In appendix B to part 4044, a new entry for June 2007, as set forth below, is added to the table.

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

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
June 2007	.0514	1–20	.0481	>20	N/A	N/A

Issued in Washington, DC, on this 10th day of May 2007.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–9331 Filed 5–14–07; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP SAVANNAH 06–160]

RIN 1625–AA87

Security Zone, Elba Island LNG Mooring Slip, Savannah River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent security zone due to recent changes in Liquefied Natural Gas (LNG) tankship mooring arrangements following the activation of two new berths within a slip at the Southern LNG Facility on the Savannah River. The Security zone includes all the waters from surface to bottom of the northeastern most mooring dolphin, located at approximately 32°05.01′ N, 080°59.38′ W, to the southeastern most mooring dolphin, located at approximately 32°04.79′ N, 080°59.35′ W, and continues west along the North and South shoreline of the mooring slip to the shoreline of the right descending bank of the Savannah River. This regulation is necessary to protect life and property on the navigable waters of the Savannah River and within the LNG slip due to potential security risks associated with the LNG Facility.

DATES: This rule is effective June 14, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP Savannah 06–160], and are available for inspection or copying at Marine Safety Unit Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia 31401, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robert Webb, Waterways Management Officer, Marine Safety Unit Savannah; (912) 652–4353.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 9, 2007, we published an interim rule with request for comments titled Security Zone, Elba Island LNG Mooring Slip, Savannah River, Savannah, GA in the **Federal Register** (72 FR 907). We received one comment on the rule. No public meeting was requested, and none was held.

Background and Purpose

In May of 2002, Southern LNG, Inc., submitted a letter of intent to expand the LNG facility on Elba Island that would nearly double the LNG storage capacity and substantially increase the number of LNG tankship arrivals. The expansion project, completed in early 2006, resulted in the creation of two new berths within a slip at the Southern LNG Facility on the Savannah River. The design of the new slip inadvertently creates a safe refuge off the Savannah River with unrestricted access to LNG berths. As a result, the LNG facility and arriving LNG vessels are put at risk of sabotage or other adverse action that could result in significant damage to property and loss of life.

This concern was confirmed by a recent incident where on June 6, 2006, a sailing vessel entered the LNG slip and anchored for six hours, one day before the scheduled arrival of an LNG carrier. This incident raised security concerns and prompted the LNG facility to conduct a visual inspection of the above water mooring features and a complete underwater survey, in turn delaying the LNG vessel. The visual inspection and underwater survey was necessary to ensure no objects that could potentially harm the vessel or facility were left in the slip. Although

the incident did not result in any harm to the facility or vessel, it was recognized by the Coast Guard that a potential vulnerability exists in the security of the LNG slip.

Additionally, as the demand for natural gas continues to grow, Southern LNG plans to expand its current operation, potentially increasing both the size and frequency of LNG vessel arrivals and further concerns over a potential accidental spill or intentional release of LNG. The risks and hazards from an LNG spill will vary depending on the size of the spill, environmental conditions, and the site at which the spill occurs. Hazards can include cryogenic burns to the ship's crew and people nearby or potential damage to the LNG ship from contact with the cryogenic LNG. Vaporization of the liquid LNG can occur once a spill occurs and subsequent ignition of the vapor cloud could cause fires and overpressures that could injure people or cause damage to the tanker's structure, other LNG tanks, or nearby structures.

Therefore, the recent incident of June 6, 2006, discussed above, the hazards associated with the transportation of LNG, and the expansion of Elba Island LNG facility necessitates this rule. Additionally, this security zone is necessary to protect the berths and moored LNG vessels within the LNG slip from potential sabotage and unauthorized access prior to a LNG ship arrival.

Discussion of Comments and Changes

We received one comment concerning the position of the southeastern most mooring dolphin. The published position of the mooring dolphin was 32[deg]04.49′ North, 080[deg]59.20′ West. This was an incorrect position, and should have been 32[deg]04.79′ North, 080[deg]59.35′ West. The final rule has been revised to reflect the correct position of the southeastern most mooring dolphin.

Additionally, the Interim Rule with request for comments incorrectly referred to 33 CFR 165.13 as the cite for Security Zone General Regulations. The correct citation for Security Zone General Regulations is 33 CFR 165.33. The final rule is changed to reflect the correct General Regulation citation.

Aside from these two changes, we have adopted the interim rule as final.

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.

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 security zone will only restrict access to a limited area, immediately surrounding a LNG facility, where vessels should not be operating due to the danger associated with the facility.

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. This interim rule would not result in such an expenditure.

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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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. A final ''Environmental Analysis Checklist'' and a final ''Categorical Exclusion Determination'' are 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, Safety 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, 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. Revise § 165.751 to read as follows:

§ 165.751 Security Zone: LNG mooring slip, Savannah River, Savannah, Georgia.

(a) *Security Zone.* The following area is a security zone: All the waters from surface to bottom of the northeastern most mooring dolphin located at approximately 32[deg]05.01′ North, 080[deg]59.38′ West, to the southeastern most mooring dolphin located at approximately 32[deg]04.79′ North, 080[deg]59.35′ West, and continues west along the North and South shoreline of the mooring slip to the shoreline of the right descending bank of the Savannah River. All marine traffic is prohibited from entering this zone unless authorized by the Captain of the Port (COTP).

(b) *Applicability.* This section applies to all vessels including naval and other public vessels, except vessels that are engaged in the following operations:

(1) Law enforcement, security, or search and rescue;

(2) Servicing aids to navigation;

(3) Surveying, maintenance, or improvement of waters in the security zone; or

(4) Actively engaged in escort, maneuvering, or support duties for an LNG tankship.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Savannah or vessels engaged in activities defined in paragraph (b).

(d) *Reporting of Violations.* Violations of this section should be reported to the Captain of the Port, Savannah, at (912) 652–4353.

Dated: April 23, 2007.

D.W. Murk,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. E7–9230 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 2

RIN 2900–AM61

Change in Secretary's Delegation of Authority and Clarification of that Authority

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) delegation regulation, which authorizes a VA official to take final action on complaints of employment discrimination when the Office of Employment Discrimination Complaint Adjudication (OEDCA) recuses itself due to a conflict of interest. The amendment provides that the Secretary of Veterans Affairs has delegated authority to take such action to the Chairman, Board of Veterans' Appeals, and clarifies that such authority includes awarding remedial relief in cases where there has been a finding of discrimination.

DATES: *Effective Date:* May 15, 2007.

FOR FURTHER INFORMATION CONTACT: Charles R. Delobe, Director, Office of Employment Discrimination Complaint Adjudication (00D), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420 (Tel. 202–254–0063).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 319 and 38 CFR 2.6(i), OEDCA has authority to take final action on complaints of employment discrimination filed by VA employees, former employees, and applicants for employment. Under 38 U.S.C. 501, the Secretary has authority to prescribe rules and regulations necessary to carry out the laws administered by VA. Further, under 38 U.S.C. 512, the Secretary may delegate authority to officers and employees of the Department as the Secretary deems necessary. In cases where OEDCA recuses itself due to an actual, apparent, or potential conflict of interest, the Secretary delegates authority to another official in the Department to take such action. In the past, that authority was delegated to the Chairman, Board of Contract Appeals, under current 38 CFR 2.6(j). This document amends § 2.6(j) to reflect the change in this delegation of authority to the Chairman, Board of Veterans' Appeals. The change in delegated authority is necessary because there has been a transfer of functions and personnel of the VA Board of Contract Appeals to the General Services Administration, which occurred on January 6, 2007. The amendment also clarifies that the delegated authority includes the authority to grant all appropriate remedies and relief in cases where there is a finding of discrimination.

Administrative Procedures Act

This final rule concerns VA agency organization, procedure, and practice, specifically delegation of authority to offices or employees of the Department to perform certain acts or render decisions. Accordingly, the prior notice and comment and delayed effective date provisions of 5 U.S.C. 553 do not apply to this rule.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule would not affect any small entities. Only VA employees, former employees, and

applicants for employment could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. 1532, requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for this final rule.

List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies).

Approved: April 19, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR part 2 as follows:

PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

■ 2. Amend § 2.6, by revising paragraph (j) to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(j) *Delegation to the Chairman, Board of Veterans' Appeals.* In cases where OEDCA has recused itself from a case due to an actual, apparent, or potential conflict of interest, the Chairman, Board of Veterans' Appeals, is delegated authority to make procedural agency decisions to dismiss, in whole or in part, EEO discrimination complaints filed by agency employees, former employees, and applicants for employment; to make substantive final agency decisions where complainants do not request an EEOC hearing; to take final agency action following a decision by an EEOC Administrative Judge; and to make final agency decisions ordering appropriate remedies and relief where there is a finding of discrimination.

* * * * *

[FR Doc. E7–9286 Filed 5–14–07; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0682; FRL–8314–6]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the West Virginia Portion of the Wheeling, WV-OH 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. The West Virginia Department of Environmental Protection (WVDEP) is requesting that the Marshall and Ohio County, West Virginia (Wheeling) portion of the Wheeling, WV-OH area (herein referred to as the ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the State submitted a SIP revision consisting of a maintenance plan for Wheeling that provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years, until 2018. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Wheeling 8-hour ozone maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the West Virginia SIP in accordance with the requirements of the CAA.

EFFECTIVE DATE: This final rule is effective on June 14, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0682. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 2, 2006 (71 FR 57894), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of West Virginia's redesignation request

and a SIP revision that establishes a maintenance plan for Wheeling that sets forth how Wheeling will maintain attainment of the 8-hour ozone NAAQS for the next 12 years. The formal SIP revision was submitted by the WVDEP on July 24, 2006. Other specific requirements of West Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here.

On October 20, 2006, EPA received a comment, from the West Virginia Division of Highways, in support of its October 2, 2006 NPR. Also, on October 28, 2006, EPA received adverse comments on the said October 2, 2006 NPR. A summary of the comments submitted and EPA's responses are provided in Section II of this document.

II. Summary of Public Comments and EPA Responses

Comment: The commenter stated that on behalf of the West Virginia Division of Highways, they would like to go on record as supporting the redesignation of the Wheeling, West Virginia portion of the Wheeling, WV-OH interstate area from nonattainment to attainment.

Response: EPA acknowledges the comment of support for our final action.

Comment: The commenter states that the Wheeling Area redesignation is based on 2002–2004 air quality data, and should instead be based on the most recent three years of air quality data, 2004–2006.

Response: EPA disagrees that the 2006 data was available as a basis for redesignating Wheeling to attainment, and also disagrees with the comment that the redesignation cannot be based on the quality assured 2002–2004 air quality data. EPA may redesignate an area to attainment of the 8-hour ozone NAAQS if three years of quality assured data indicate that the area has attained the standard and the most recent quality assured air quality data indicate that the area is still attaining the standard at the time of the redesignation. EPA has determined that the Wheeling, WV portion of the Wheeling, WV-OH nonattainment area has attained compliance with the 8-hour ozone NAAQS subsequent to the calendar year 2004 ozone season (April–October) based on three years (2002–2004) of quality assured data. It is also worth noting that while our determination that the Area has attained the standard is based on the 2002–2004 data, the 2005 calendar year quality assured data and the newly available quality assured data from 2006, indicate that the Area continues to attain the standard. The 2005 and 2006 data support our conclusion in the notice of proposed rulemaking (NPR) on October 2, 2006 (71 FR 57894) that emissions reductions in the Area can be attributed to permanent and enforceable measures throughout the Area and that air quality monitoring date indicates that the Area continues to attain the 8-hour ozone NAAQS.[1]

Comment: The commenter asserts that EPA should not approve the redesignation of Wheeling because the Wheeling monitor was twice relocated during calendar years 2004 and 2005. The commenter states that (at its current location) the Wheeling ozone monitor should operate for one additional year in order to confirm attainment of the NAAQS and that EPA should not act on WVDEP's redesignation request until the air quality data for the additional monitoring period have been evaluated.

Response: Since 1982, WVDEP has operated and maintained an ozone monitoring station for the West Virginia portion of the Wheeling Area. The commenter refers to the Wheeling monitor as having been relocated from ''Site 7'' to ''Site 9,'' and finally to ''Site 10.'' The monitoring station was originally located at WVDEP's Northern Panhandle Regional Office. The station continued to operate at this location (Site 7) until WVDEP had to discontinue the operations at the site due to the relocation of its Northern Panhandle Regional Office prior to the calendar year 2004 ozone season (April through October). As a result, WVDEP installed an interim ozone station in the Wheeling Area which was located approximately four miles south of the station's original location and collected data for the 2004 ozone season (Site 9). In anticipation of the 2005 season, WVDEP established a new site for the Wheeling ozone monitor which was approximately three-tenths of a mile south of the monitor's original location (Site 10). The new monitoring site is similar in characteristics to the original monitoring site. The sites are located in the same river valley with no obstructions between the sites and have a similar distribution of surrounding ozone sources. Both monitoring locations are located within the City of Wheeling, West Virginia and the surrounding areas have comparable population density, with no large industrial sources, and no adjacent highways. The current location of the Wheeling ozone monitor is in an area which has the infrastructure and arranged access to operate for many years.

The data from monitoring sites 7, 9, and 10 were pooled for two three-year periods: (1) 2002, 2003, and 2004 (Sites 7 and 9) and (2) 2003, 2004 and 2005 (Sites 7, 9, 10). In addition, the data from monitoring sites 9 and 10 were pooled for 2004–2006. *See also*, footnote 1. The commenter asserted that data obtained from Site 9 was a ''poor site'' and that the data obtained from this site in 2004 was of low value for purpose of the 8-hour ozone NAAQS. EPA evaluated ozone statistics for the Wheeling Area for 2004 (i.e., number of days with eight-hour averages greater than 0.0084 ppm and 4th highest eight-hour average for the year), and found them to be reasonable and consistent when compared to ozone measurements collected in Wheeling and at other nearby monitoring stations in the Ohio River Valley during the period examined (1998 thru 2005).

Based on a review of ozone air quality data from the Wheeling Area for this period, the proximity and characteristics of the monitoring sites, and giving consideration to WVDEP's reasons for relocating the ozone monitoring station during period of 2003–2005, EPA has concluded that the integrity of ozone data submitted for this Area was not affected by the fact that the data was collected from three different, and relatively close together, monitoring locations. This data is acceptable for purposes of redesignating the Wheeling Area to attainment of the 8-hour ozone NAAQS.

Comment: The commenter asserts that cold and wet summers, rather than enforceable emissions reductions are a significant cause of improvement of air quality in Wheeling, although the commenter also asserts based on the number of days exceeding 84 ppb in 2005 that the air quality is actually not improving.

Response: In accordance with Appendix I to 40 CFR Part 50, compliance with the 8-hour ozone NAAQS is met at an ambient air monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm; it is not based on the number of days which exceed the 8-hour ozone standard. Additionally, EPA uses the three-year averaging period to minimize year to year variations in the summer (i.e., ozone season) weather. *See* Redesignation of Pittsburgh, Pennsylvania, 66 FR 53094, 53100

[1] The fourth highest 8-hour ozone monitoring values at the Ohio County, West Virginia monitor for 2006 were 0.085 ppm, 0.083 ppm, 0.079 ppm, and 0.079 ppm. Thus the design value at the Area monitor for monitoring years 2004–2006 are still showing attainment of the 8-hour NAAQS with a value of 0.077 ppm at the Wheeling monitor.

(October 19, 2001). Therefore, the number of days exceeding 84 ppb are not relevant to a determination of whether an area (or portion thereof), has attained the 8-hour ozone NAAQS. Information relative to long term trends of West Virginia summer temperatures and rainfall-based data was obtained from the National Oceanic and Atmospheric Administration's (NOAA) National Climate Data Center (please see attached). Based on EPA's review, this information shows that the summers 2000 through 2006 experienced year to year variations in average summer temperature and rainfall typical of the summer seasons in the State of West Virginia. Thus the improvement in air quality is not due to unusually cold and wet summers. Rather, the improvement in air quality is due to the implementation of permanent and enforceable measures as explained in the NPR. The permanent and enforceable measures listed in the Wheeling NPR include the National Low Emissions Vehicle (NLEV), motor vehicle fleet turnover with new vehicles meeting the Tier 2 standards, and the Clean Diesel Program. These federal vehicle programs along with the NO_X SIP Call resulted in a 0.9 tons per year (tpy) decrease in VOC emissions and a 69.8 tpy decrease in NO_X emissions throughout the Wheeling Area between 2002 and 2004. Therefore, EPA believes that the improvement in 8-hour ozone air quality is a result of identifiable, permanent and enforceable reductions in ozone precursor emissions, not unusually cold and wet summers.

Comment: The commenter requests air quality data for time periods outside the time period be used for redesignation, and for areas outside the West Virginia portion of the Wheeling Area which is the subject of this rulemaking, and other air quality data such as data provided by the Clean Air Status and Trends Network (CASTNET) and the National Atmospheric Deposition Program (NADP) monitoring networks, which has not been used to support this rulemaking. The commenter also insists that monitoring data from a rural ozone monitoring site, a CASTNET monitor, located in adjacent Noble County, Ohio should have been considered in this rulemaking.

Response: As discussed previously, the redesignation is demonstrated by the quality assured 2002–2004 ozone monitoring data, and continued attainment of the 8-hour ozone NAAQS is demonstrated by the quality assured 2005 and 2006 ozone monitoring data for the Wheeling Area. Other air quality data, from other monitoring networks or for time periods outside the years being used to support the redesignation request, or which are located outside the Wheeling Area (i.e., Noble County, OH CASTNET monitor), are not relevant to the redesignation request. Furthermore, CASTNET and NADP monitors are not operated for purposes of the regional ozone monitoring network nor do they satisfy the quality assurance requirements necessary to support requests for redesignation.

Additionally, the United States Court of Appeals for the District of Columbia Circuit recently vacated EPA's April 30, 2004 ''Final Rule To Implement the 8-Hour Ozone National Ambient Standard'' (the Phase 1 implementation rule). *South Coast Air Quality Management District* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2007). EPA issued a supplemental proposed rulemaking that set forth its views on the potential effect of the Court's ruling on this and other proposed redesignation actions. 72 FR 13452 (March 22, 2007). EPA proposed to find that the Court's ruling does not alter any requirements relevant to the proposed redesignations that would prevent EPA from finalizing these redesignations, for the reasons fully explained in the supplemental notice. EPA provided a 15-day review and comment period on this supplemental proposed rulemaking. The public comment period closed on April 6, 2007. EPA received six comments, all supporting EPA's supplemental proposed rulemaking, and supporting redesignation of the affected areas. EPA recognizes the support provided in these comments as well, but again, we do not believe any specific response to comments is necessary with respect to these comments. In addition, several of these comments included additional rationale for proceeding with these proposed redesignations. EPA had not requested comment on any additional rationale, does not believe any additional rationale is necessary, and similarly does not believe any specific response to these comments is necessary, and thus has not provided any.

III. Final Action

EPA is approving the State of West Virginia's July 24, 2006 redesignation request and maintenance plan because the requirements for approval have been satisfied. EPA has evaluated West Virginia's redesignation request, submitted on July 24, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that Wheeling has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of Wheeling from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for Wheeling, submitted on July 24, 2006, as a revision to the West Virginia SIP. EPA is approving the maintenance plan for Wheeling because it meets the requirements of section 175A.

EPA is also approving the MVEBs submitted by West Virginia in conjunction with its redesignation request. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO_X and VOCs in the Wheeling 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, Marshall and Ohio Counties must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBS) IN TONS PER DAY (TPD)

Budget year	NO_X	VOC
2009	4.3	2.5
2018	1.7	1.4

Wheeling is subject to the CAA's requirements for basic ozone nonattainment areas until and unless it is redesignated to attainment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final

rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This final rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it affects the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, to approve the redesignation request, maintenance plan and adequacy determination for MVEBs for Wheeling, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

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

Dated: May 8, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Wheeling, WV-OH Area at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
8-Hour Ozone Maintenance Plan for the Wheeling, WV-OH Area.	Marshall and Ohio County	07/24/06	05/15/07 [Insert page number where the document begins].	

PART 81—[AMENDED]

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

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

■ 4. In § 81.349 the table entitled ''West Virginia—Ozone (8-Hour Standard)'' is amended by revising the entry for the Wheeling, WV-OH Area to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Wheeling, WV-OH Area				
Marshall County	5/15/07	Attainment.		
Ohio County	5/15/07	Attainment.		
* * *	*	*	*	*

[a] Includes Indian country located in each county or area except otherwise noted.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E7–9287 Filed 5–14–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 060525140–6221–02]

RIN 0648–XA21

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper/Grouper Resources of the South Atlantic; Trip Limit Reduction

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, May 17, 2007, through January 1, 2008, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jason Rueter, telephone 727–824–5305, fax 727–824–5308, e-mail *jason.rueter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Resources of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council 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.

Under 50 CFR 622.44(c)(2), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish when 75 percent of the fishing year quota is met to 300 lb (136 kg) per trip, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before May 17, 2007. Accordingly, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, on May 17, 2007, until the fishery closes or 12:01 a.m., local time, on January 1, 2008, whichever occurs first.

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)(3)(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 over harvest of the quota. Prior notice and opportunity for public comment would require additional time and would likely 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 the 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: May 10, 2007.

James P. Burgess,

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

[FR Doc. 07–2392 Filed 5–10–07; 4:08 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 93
Tuesday, May 15, 2007

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket No. AMS–TM–07–0062; TM–07–06]

RIN 0581–AC71

National Organic Program (NOP)—Proposed Amendments to the National List of Allowed and Prohibited Substances (Processing)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule proposes to amend the Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) regulations to enact recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) during public meetings held May 6–8, 2002, in Austin, Texas, and March 27–29, 2007, in Washington, DC. Consistent with the NOSB recommendations, this proposed rule proposes to add 38 substances, along with any restrictive annotations, to the National List regulations.

DATES: Comments must be received by May 22, 2007.

ADDRESSES: Interested persons may comment on this proposed rule using any of the following procedures:

- Mail: Comments may be submitted by mail to Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, 1400 Independence Ave., SW., Room 4008-So., Ag Stop 0268, Washington, DC 20250.
- Internet: *www.regulations.gov*.
- Written comments on this proposed rule should be identified with the docket number AMS–TM–07–0062. Commenters should identify the topic and section number of this proposed rule to which the comment refers.
- Clearly indicate if you are for or against the proposed rule or some portion of it and your reason for it. Include recommendation changes as appropriate.
- Include a copy of articles or other references that support your comments. Only relevant material should be submitted.

All comments to this proposed rule, submitted by any procedure, will be available for viewing at: *www.regulations.gov*. Comments submitted in response to this proposed rule will also be available for viewing in person at USDA–AMS, Transportation and Marketing, National Organic Program, Room 4008-South Building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except on official Federal holidays). Persons wanting to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Robert Pooler, Agricultural Marketing Specialist or Valerie Frances, NOSB Executive Director, National Organic Program, USDA/AMS/TM/NOP, Room 4008-So., Ag Stop 0268, 1400 Independence Ave., SW., Washington, DC 20250. Phone: (202) 720–3252.

SUPPLEMENTARY INFORMATION:

I. Background

The Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*), authorizes the establishment of the NOP regulations. On December 21, 2000, the Secretary established, within the NOP (7 CFR part 205), the National List regulations §§ 205.600 through 205.607. This National List identifies the synthetic substances that may be used and the non-synthetic substances that may not be used in organic production. The National List also identifies synthetic, non-synthetic and non-organic substances that may be used in organic handling. The OFPA and NOP regulations, in § 205.105, specifically prohibit the use of any synthetic substance for organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any non-organic, non-synthetic substance used in organic handling must also be on the National List.

Until recently, producers, handlers and certifying agents may have misinterpreted National List regulations § 205.606 to mean that any non-organic agricultural product which was determined by an accredited certifying agent to be not commercially available in organic form could be used in organic products, without being individually listed pursuant to the National List procedures. In January 2005, the First Circuit Court of Appeal's decision in *Harvey* v. *Johanns* found that such an interpretation is contrary to the plain meaning of the OFPA and held that 7 CFR 205.606 shall not be interpreted to create a blanket exemption to the National List requirements specified in §§ 6517 and 6518 of the OFPA (7 U.S.C. 6517–6518). Thereafter, consistent with the district court's final judgment and order, dated June 9, 2005, on July 1, 2005, the NOP published a notice regarding § 205.606 (70 FR 38090), and on June 7, 2006, published a final rule (71 FR 32803) revising § 205.606 to clarify that the section shall be interpreted to permit the use of a non-organically produced agricultural product only when the product has been listed in § 205.606 pursuant to National List procedures, and when an accredited certifying agent has determined that the organic form of the agricultural product is not commercially available. As a result, any non-organic agricultural substances that are being used in organic products that are not specifically listed in § 205.606 pursuant to National List procedures will render currently certified products in non-compliance when the district court's final order and judgment on *Harvey* v. *Johanns* becomes fully effective on June 9, 2007.

Under the authority of OFPA and the NOP regulations, the National List can be amended by the Secretary based upon proposed amendments developed by the NOSB through the National List petition process. This proposed rule proposes to amend the National List regulations to enact recommendations submitted to the Secretary by the NOSB during public meetings held May 6–8, 2002, and March 27–29, 2007. In these time periods, the NOSB has recommended that the Secretary add 38 substances to § 205.606, along with any restrictive annotations, to the National List regulations.

A 7-day comment period has been deemed appropriate to allow interested persons to respond to this proposed rule. Seven days is deemed appropriate because under the NOP regulations (7 CFR part 205.606) the allowed use of these 38 substances, pursuant to the district court's final order and judgment on *Harvey* v. *Johanns,* will expire on June 9, 2007. A 7-day comment period will help avoid lapses in the eligibility of the petitioned substances to be used in organic handling. Additionally, interested persons have already been provided with 30 days of public comment on these 38 substances in advance of the NOSB meetings held May 6–8, 2002, and March 27–29, 2007. The NOSB considered these comments during their reviews and concluded that the petitioners had provided sufficient evidence for adding these 38 substances to the National List. Final rulemaking to allow the use of these 38 petitioned substances, if adopted, should be completed before June 9, 2007. Any comments that are received timely will be considered before final determinations are made on these petitioned substances.

II. Overview of Proposed Amendments

The following provides an overview of the proposed amendments to designated sections of the National List regulations.

Section 205.606 Nonorganically Produced Agricultural Products Allowed as Ingredients in or on Processed Products Labeled as ''Organic''

This proposed rule would amend § 205.606 of the National List regulations by adding the following substances:

Color Ingredients From Agricultural Products

Annatto extract color, (pigment CAS #1393–63–1). Annatto extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Annatto extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by the Food and Drug Administration (FDA) (21 CFR 73.30). Depending on the concentration used, annatto extract color adds a deep orange to light yellow color to foods. Annatto extract color is a liquid derived from physical or oil extraction of annatto seeds (*Bixaceae bixa orellana*). The major pigments in annatto extract color are classified as Carotenoids which are insoluble in water, partially soluble in ethanol, and soluble in vegetable oils. Fruit and vegetable extracts containing Carotenoids are heat and light sensitive, but also display antioxidant properties that may be beneficial to human health.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding annatto extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of annatto extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated annatto extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that annatto extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of annatto extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow annatto extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Beet juice extract color, (pigment CAS #7659–95–2). Beet juice extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Beet juice extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.40). Depending on the beet source, concentration used and pH, beet juice extract color adds a yellow, red or pink color to foods. Beet juice extract color is a liquid derived from beets (*Amaranthaceae beta vulgaris*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The principle pigment in beet juice extract color is Betanin or beetroot red. This pigment is grouped in a class of pigments known as Betalains. These pigments are soluble in water, insoluble in ethanol, and are found only in a few plant families. Betalain pigments are well suited for use in low acid foods, complement Anthocyanin pigments in food coloring, and may have antioxidant capability that may be beneficial to human health.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding beet juice extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of beet juice extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated beet juice extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that beet juice extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of beet juice extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow beet juice extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Beta-Carotene extract color from carrots (CAS #1393–63–1). Beta-Carotene extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Beta-Carotene extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.95). Depending on the concentration used, Beta-Carotene extract color adds a deep orange to light yellow color to foods. Beta-Carotene extract color is a liquid derived from carrots (*Apiaceae daucus carota*) through physical extraction in vegetable oil. The final extract product is a dark orange viscous concentrate. The major pigments in Beta-Carotene extract color are Carotenoids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Beta-Carotene extract color from carrots to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Beta-Carotene extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated Beta-Carotene extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Beta-Carotene extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Beta-Carotene extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Beta-Carotene extract color from carrots as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Black currant juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Black currant juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, Black currant juice color adds a bright red to blue-purple color to foods. Black currant juice color is a liquid derived from black currant fruit (*Grossulariaceae ribes nigrum*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in Black currant juice color are classified as Anthocyanins which are soluble in water. Anthocyanins are polyphenolic natural pigments that are present in many plant species and frequently occur as glycosides in various combinations that produce colors such as orange, red, blue or purple. Fruit and vegetable extracts containing Anthocyanins are usually stable to UV light and temperature, but are sensitive to the presence of oxygen or metal ions such as iron or aluminum. Anthocyanin pigments may have increased color intensity and stability in moderately acidic solutions.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Black currant juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Black currant juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated Black currant juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Black currant juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Black currant juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Black currant juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Black/Purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Black/Purple carrot juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Black/Purple carrot juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.300). Depending on the concentration used, black/purple carrot juice color adds a deep blue-purple-black color to foods. Black/Purple carrot juice color is a liquid extract derived from black or purple carrots (*Apiaceae daucus carota*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The pigments in black/purple carrot juice color are water soluble Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding black/purple carrot juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of black/purple carrot juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated black/purple carrot juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that black/purple carrot juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of black/purple carrot juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow black/purple carrot juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Blueberry juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Blueberry juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, Blueberry juice color adds a blue to red color to foods. Blueberry juice color is a liquid derived from blueberry fruit (*Vaccinium cyanococcus*) through physical extraction. The major pigments in Blueberry juice color are water soluble Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Blueberry juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Blueberry juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated Blueberry juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Blueberry juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Blueberry juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Blueberry juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Carrot juice color, (pigment CAS #1393–63–1). Carrot juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Carrot juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.300). Depending on the concentration used, Carrot juice color adds a deep organic to light yellow color to foods. Carrot juice color is a liquid derived from carrots (*Apiaceae daucus carota*) through physical extraction. The major pigments in Carrot juice color are Carotenoids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Carrot juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Carrot juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated Carrot juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Carrot juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Carrot juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Carrot juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Cherry juice color, (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Cherry juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Cherry juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used and solution pH, cherry juice color adds a pink to blue-red color to foods. Cherry juice color is a liquid derived from cherry fruit (*Prunus cerasus L.*) through aqueous and physical extraction. The major pigments in Cherry juice color are water soluble Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding cherry juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of cherry juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated cherry juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that cherry juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of cherry juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow cherry juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Chokeberry—Aronia juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Chokeberry—Aronia juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, chokeberry—aronia juice color adds a bright red to blue-purple color to foods. Chokeberry—aronia juice color is a liquid derived from the chokeberry fruit (*Grossulariaceae ribes nigrum*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in chokeberry—aronia juice color are Anthocynanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding chokeberry—aronia juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of chokeberry—aronia juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated chokeberry—aronia juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that chokeberry—aronia juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of chokeberry—aronia juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow chokeberry—aronia juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Elderberry juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Elderberry juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, elderberry juice color adds a bright red to blue-purple color to foods. Elderberry juice color is a liquid derived from elderberry fruit (*Adoxaceae sambucus nigra*) through aqueous and physical extraction. The major pigments in elderberry juice color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding elderberry juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of elderberry juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated elderberry juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that elderberry juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of elderberry juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow elderberry juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Grape juice Color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Grape juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.169). Depending on the concentration used, grape juice color adds a bright pink to deep red color to foods. Grape juice color is a liquid derived from grape fruit (*Vitaceae vitis vinifera*) through aqueous and physical extraction. The major pigments in grape juice color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding grape juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of grape juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated grape juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that grape juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of grape juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow grape juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Grape skin extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Grape skin extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.170). Depending on the concentration used, grape skin extract color adds a pink to deep purple color to foods. Grape skin extract color is a liquid derived from grape fruit (*Vitaceae vitis vinifera*) through aqueous and physical extraction. Powder forms are

derived from drying extracts. The major pigments in grape skin extract color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding grape skin extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of grape skin extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated grape skin extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that grape skin extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of grape skin extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow grape skin extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Paprika color—dried powder and vegetable oil extract, (CAS #68917–78–2). Paprika color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Paprika color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.340 and 73.345). Depending on the concentration used, Paprika color adds a yellow orange to red orange color to foods. Paprika color is a ground dried powder or vegetable oil extracted liquid derived from Capsicium peppers (*Capsicum annuum L.*). The principle coloring components of paprika color are considered to be Carotenoids that are identified as Capsanthgin and Capsorubin.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding paprika color, dried powder and vegetable oil extract, to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of paprika color, dried powder and vegetable oil extract, is considered commercially unavailable. In this open meeting, the NOSB evaluated paprika color, dried powder and vegetable oil extract, against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that paprika color, dried powder and vegetable oil extract, is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of paprika color, dried powder and vegetable oil extract, in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow paprika color, dried powder and vegetable oil extract, as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Pumpkin juice color, (pigment CAS #127–40–2). Pumpkin juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Pumpkin juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, pumpkin juice color adds a yellow to orange red color to foods. Pumpkin juice color is a liquid derived from pumpkin fruit (*Concurbita L.*) through physical extraction and effluent concentration. The major pigments in pumpkin juice color are Carotenoids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding pumpkin juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of pumpkin juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated pumpkin juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that pumpkin juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of pumpkin juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow pumpkin juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Purple potato juice color, (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Purple potato juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Purple potato juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.260). Depending on solution pH and the concentration used, Purple potato juice color adds a pink to purple color to foods. Purple potato juice color is a liquid derived from purple potatoes (*Ipomoea batatas L.*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in purple potato juice color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding purple potato juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of purple potato juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated purple potato juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that purple potato juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of purple potato juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow purple potato juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Red cabbage extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Red cabbage extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.260). Depending on the concentration used, red cabbage extract color adds a red or pink color to foods. Red cabbage extract color is a liquid derived from red cabbage (*Brassicadeae brissica oleracea*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in red cabbage extract color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding red cabbage extract color to the National List for use in organic handling as a non-organic

agricultural ingredient when the organic form of red cabbage extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated red cabbage extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Red cabbage extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of red cabbage extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow red cabbage extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Red radish extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Red radish extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Red radish extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.260). Depending on the concentration used, red radish extract color adds a red to pink color to foods. Red radish extract color is a liquid derived from red radish (*Brassicaceae raphinus sativus*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in red radish extract color are water soluble Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding red radish extract color to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of red radish extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated red radish extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that red radish extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of red radish extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow red radish extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Saffron extract color (pigment CAS #1393–63–1). Saffron extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Saffron extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.500). Depending on the concentration used, saffron extract color adds a bright yellow to orange color to foods. Saffron extract color is a powder derived from stigmas of the Autumn Crocus blossoms (*Crocus sativus*) that are dried and ground. The predominant color pigment in saffron extract color is Crocin, a tetraterpene Carotenoid.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding saffron extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of saffron extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated saffron extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that saffron extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of saffron extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow saffron extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Turmeric extract color, (CAS #458–37–7). Turmeric extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Turmeric extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.600). Depending on the concentration used, turmeric extract color adds a bright yellow color to foods. Turmeric extract color is a liquid derived from the rhizomes of the plant *Curcuma longa,* a member of the ginger family *Zingiberaceae,* through physical extraction in vegetable oil. The major pigments in turmeric extract color are Curcumunoids which are reported to be strong antioxidants.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding turmeric extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of turmeric extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated turmeric extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that turmeric extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of turmeric extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow turmeric extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Ingredients or Processing Aids From Agricultural Products

Casings, from processed intestines (no CAS #). Casings, from processed intestines was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Casings from processed intestines are used as sheaths in the manufacture of sausage and a variety of other meat products. Its use in the manufacture of meat products is regulated by the USDA (9 CFR parts 317 and 38). Casings are derived from processed intestines primarily from the bovine, ovine or porcine animal species. The justification for adding non-organic casings to the National List is based upon insufficient availability of processed intestines from organically produced animals.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding casings from processed intestines to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of casings is considered commercially unavailable. In this open meeting, the NOSB evaluated casings from processed intestines against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that casings from processed intestines is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of casings from

processed intestines in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow casings from processed intestines as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Celery powder (No CAS #). Celery powder was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' This substance is used on meat products to facilitate the natural curing of meat. Its general use in food products is regulated by FDA (21 CFR 182.10). When applied to meat products, celery powder provides a concentrated source of nitrate that is converted to nitrite by reacting with myoglobin, a component in the meat tissue. This curing process inhibits growth of undesirable microorganisms, retains color and preserves the flavors of meats. Celery powder is a light green powder obtained from processing celery plant tissue by cutting, grinding, drying, pulping, or similar processing of tissues as described under FDA (21 CFR 101.22).

At its March 27–29, 2007 meeting in Washington, DC, the NOSB recommended adding celery powder to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of celery powder is considered commercially unavailable. In this open meeting, the NOSB evaluated celery powder against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that celery powder is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of celery powder in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow celery powder as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Chia (*Salvia hispanica L.*) (no CAS #). Chia was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Chia is used as an ingredient in a variety of foods such as baked goods and beverages. Its use in food products is regulated by FDA (21 CFR 182.10). Chia is an annual herb grown in Central America, considered to be gluten free, provides both soluble and insoluble dietary fiber, and is a good source of omega-3 fatty acids. In some regions, chia is primarily cultivated for its seeds which are known to have a high concentration of omega-3 fatty acids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding chia to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of chia is considered commercially unavailable. In this open meeting, the NOSB evaluated chia against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that chia is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of chia in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow chia as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Dillweed oil, (CAS #8006–75–5). Dillweed oil was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Dillweed oil is used as a flavoring agent in organic dill pickle production. The flavor and aroma components of dillweed oil are attributed to substances classified as Monoterpenes—Carvone, Limonene and Phellandrene. Dillweed oil is a colorless to pale yellow or yellow clear liquid that is insoluble in water and its use in food products is regulated by FDA (21 CFR 184.1282). After harvest, the dillweed plant (*Anethum graveolens*) is steam distilled and the dillweed oil is collected in the condensate. This oil is then standardized to achieve the desired flavor properties.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding dillweed oil to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of dillweed oil is considered commercially unavailable. In this open meeting, the NOSB evaluated dillweed oil against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that dillweed oil is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of dillweed oil in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow dillweed oil as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8). Fish oil was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Fish oil is used as an ingredient in a variety of foods such as baked goods, cereals, cheese products, and soups. Its use in food products is regulated by FDA (21 CFR 184). A primary purpose for adding fish oil as an ingredient to foods is to elevate the omega-3 fatty acid content of foods. Fish oil is a mixture of fatty acids with two omega-3 fatty acids, Eicosapentaenoic acid and Docosahexaenoic acid as the principle fatty acid components. It is a liquid that is extracted and refined from fish by-product sourced from high fat containing fish species such as salmon, tuna, anchovy and sardines.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding fish oil to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of fish oil is considered commercially unavailable. In this open meeting, the NOSB evaluated fish oil against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that fish oil is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of fish oil in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow fish oil as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Fructooligosaccharides (CAS #308066–66–2). Fructooligosaccharides was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Fructooligosaccharides is used as an ingredient in a variety of food products. Its use in food products is regulated by FDA (21 CFR 172.892). A primary purpose for adding fructooligosaccharides as an ingredient to foods is to serve as a bulking agent by providing prebiotic fiber to foods. Fructooligosaccharides are naturally present in several vegetables, fruits and

grains that may be components of standard diets. This substance is commercially produced by subjecting sucrose to heated fermentation with an *Aspergillus japonicus* derived enzyme. The inclusion of this non-digestible carbohydrate is thought to promote a more favorable intestinal microbial composition which may be beneficial to human health.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding fructooligosaccharides to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of fructooligosaccharides is considered commercially unavailable. In this open meeting, the NOSB evaluated fructooligosaccharides against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that fructooligosaccharides is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of fructooligosaccharides in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow fructooligosaccharides as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Galangal—frozen (no CAS #). Galangal—frozen, was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Galangal is used as a flavoring ingredient in a variety of foods. Its use as an ingredient in food products is regulated by FDA (21 CFR 182.10). The essential oils (aroma components) and flavoring capacity of galangal varies with the source of galangal. Fresh or frozen galangal provides more of the aroma essential oils and flavoring capacity compared to dried galangal. Galangal is derived from knobby galanga rhizome or rootstock (*Alpina galanga, Alpina officinarum*). It is a ginger-like rootstock with an orange-brown or pale red surface and woody texture.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding frozen galangal to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of frozen galangal is considered commercially unavailable. In this open meeting, the NOSB evaluated frozen galangal against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that frozen galangal is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of frozen galangal, in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow frozen galangal, as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Gelatin (CAS #9000–70–8). Gelatin was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Gelatin is used as a stabilizer, thickener, or texturizer in a variety of foods. It can also be used as a processing aid such as a beverage clarifier, or as a protective coating or container for substances. Gelatin is considered to be a generally recognized as safe (GRAS) substance as provided by FDA (21 CFR 170). It can be manufactured from several different types of naturally derived collagen that is subjected to partial hydrolysis and extraction procedures. Gelatin is a heterogeneous mixture of high molecular weight water soluble proteins. It is a colorless, tasteless, odorless and considerably transparent substance that binds with water and swells to form a gelatinous product.

At its May 6–8, 2002, meeting in Austin, Texas, the NOSB recommended adding gelatin to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of gelatin is considered commercially unavailable. In this open meeting, the NOSB evaluated gelatin against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA, assessed its commercial availability, received public comment, and concluded that gelatin is consistent with OFPA evaluation criteria and not commercially available in organic form. Therefore, in response to the NOSB recommendation regarding the use of gelatin in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow gelatin as a non-organically produced agricultural product allowed as an ingredients in or on processed products labeled as ''organic.''

Hops (*Humulus lupulus*). Hops was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Hops are a primary ingredient used in brewing beer. Several varieties of hops are used in the manufacture of beer products. Although the final brewing product is regulated by the Bureau of Alcohol, Tobacco & Firearms, hops are processed and packaged according to FDA (21 CFR 110), *Current Good Manufacturing Practice in Manufacturing, Packing or Holding Human Food.* As used for the brewing process, hops form varieties include whole hops, hop pellets, hop powder pellets, modified hop powder pellets or hops extract. Hops contribute unique flavors and aroma to brewing, and may serve as a natural stabilizer. While hops are grown in diverse agricultural regions, hop varieties vary in flavor and aroma characteristics, and are selected based upon the unique characteristics contributed to brewing. Due to these unique characteristics that are contributed to a specific brewing process, brewers cannot interchange hop varieties should a selected variety be commercially unavailable without significant changes in the final product.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding hops to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of hops is considered commercially unavailable. In this open meeting, the NOSB evaluated hops against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that hops is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of hops in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow hops as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Inulin, oligofructose enriched, (CAS #9005–80–5). Oligofructose enriched inulin was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Oligofructose enriched inulin is used as an ingredient in a variety of foods. It is considered to be a GRAS substance and its use in food products is regulated by FDA (21 CFR 172.892). A primary purpose for adding oligofructose enriched inulin as an ingredient to foods is to add soluble dietary fiber, and provide texture and consistency to food products. Oligofructose enriched inulin is derived

from inulin which is a polymer of naturally occurring oligosaccharide produced in many types of plants. Inulin is extracted from the root of the chicory plant (*Cichorium intybus*) by a hot water diffusion process. Subsequently, the extracted inulin is partially enzymatically hydrolyzed to yield oligofructose enriched inulin. The hydrolyzate is dried to a powder for application in foods. Enzyme hydrolyzation reduces the chemical chain length of the oligosaccharide polymer resulting in varying functional properties between inulin and the oligofructose enriched form. The shorter polymer chain length increases polymer solubility and facilitates product texture and consistency.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding oligofructose enriched inulin to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of oligofructose enriched inulin is considered commercially unavailable. In this open meeting, the NOSB evaluated oligofructose enriched inulin against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that oligofructose enriched inulin is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of oligofructose enriched inulin in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow oligofructose enriched inulin as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Konjac flour (CAS #37220–17–0). Konjac flour was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Konjac flour is used as an ingredient in foods as a gelling agent, stabilizer, thickener, fat replacer, and similar technological functions. Its use as an ingredient in non-meat food products is regulated by FDA (21 CFR 170) and its use in meat products is regulated by USDA Food Safety Inspection Service (FSIS) (9 CFR 381). Konjac flour is a dried powder derived from aqueous and physical extraction of the glucomannan polysaccharide (mannose and glucose units) from ground elephant yam (*Amorphophallu*) tuber (root). The polysaccharide in konjac flour has a large molecular weight and can have a high rate of hydration leading to increased viscosity of foods when included as an ingredient. The degree of water gelling with konjac flour is a function of the presence of acetyl groups within the glucomannan molecule. De-acetylation of the molecule in the presence of a weak base allows formation of stable gels.

At its May 6–8, 2002, meeting in Austin, Texas, the NOSB recommended adding konjac flour to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of konjac flour is considered commercially unavailable. In this open meeting, the NOSB evaluated konjac flour against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA, assessed its commercial availability, received public comment, and concluded that konjac flour is consistent with OFPA evaluation criteria and not commercially available in organic form. Therefore, in response to the NOSB recommendation regarding the use of konjac flour in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow konjac flour as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Lemongrass, frozen (no CAS #). Lemongrass, frozen was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Frozen lemongrass is used as a distinct citrus flavoring agent in a variety of foods. Its use in food products is regulated by FDA (21 CFR 182.10). The flavor component of frozen lemongrass is attributed to an oil substance classified as a Terpenoid, Citral, also known as Lemonal. Lemongrass (*Cymbopogon citratus*) is an aromatic plant with long slender blades grown in warm temperate and tropical regions. When added to foods, the edible portion of the plant is usually sliced or bruised to release the lemongrass oil. Dried/powdered lemongrass sources may not provide the flavor potential as either fresh or frozen lemongrass.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding frozen lemongrass to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of frozen lemongrass is considered commercially unavailable. In this open meeting, the NOSB evaluated frozen lemongrass against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that frozen lemongrass is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of frozen lemongrass in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow frozen lemongrass as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Orange shellac, unbleached (CAS #9000–59–3). Unbleached orange shellac was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Unbleached orange shellac is used principally as a coating agent and as a glazing or polishing agent on fruits and vegetables. It may also be used as a color dilutent or as an ingredient for the glazing of confectionary products. Its use as an ingredient or processing aid is regulated by FDA (21 CFR 184). Unbleached orange shellac is a hard, durable, amorphous resin that is semi-impermeable to water. It is used in combination with other ingredients in coatings on fruits and vegetables to limit water loss and reduce gas exchange (natural ethylene) resulting from fruit or vegetable ripening. Unbleached orange shellac is a mixture of resins derived from secretions of the Lac insect (*Laccifer lacca Kerr*) that are collected from resiniferous trees and bushes, and further processed to yield shellac.

At its May 6–8, 2002, meeting in Austin, Texas, the NOSB recommended adding unbleached orange shellac to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of unbleached orange shellac is considered commercially unavailable. In this open meeting, the NOSB evaluated unbleached orange shellac against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA, assessed its commercial availability, received public comment, and concluded that unbleached orange shellac is consistent with OFPA evaluation criteria and not commercially available in organic form. Therefore, in response to the NOSB recommendation regarding the use of unbleached orange shellac in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow unbleached orange shellac as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Pepper, chipotle chile (no CAS #). Chipotle chile pepper was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Its use in food products is regulated by FDA (21 CFR 182.1). Chipotle chile pepper is used as a flavoring agent in a variety of food products. Chipotle chile peppers are smoke dried jalapeno chile peppers (*Capsicum annuum*) that are allowed to mature on the vine from a green to a red color. After harvest, the red chile peppers are slowly dried and smoked. Chipotle chile peppers are considered to have a sweet, smoky flavor with a strong degree of ''hotness'' or spiciness. Spiciness is a function of the concentration of Capsicum, a chemical that stimulates thermoreceptor nerve endings in the skin. Authentic chipotle chile peppers are produced primarily in Mexico. Chile pepper varieties that are produced in other regions reportedly provide less flavoring or different flavoring.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding chipotle chile pepper to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of chipotle chile pepper is considered commercially unavailable. In this open meeting, the NOSB evaluated chipotle chile pepper against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that chipotle chile pepper is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of chipotle chile pepper in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow chipotle chile pepper as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Rice starch, unmodified (CAS #977000–08–0). Unmodified rice starch was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Unmodified rice starch is affirmed for use as an ingredient in a variety of foods through its inclusion on the FDA's ''Everything'' Added to Food in the United States (EAFUS) list which is a list of ingredients that can be added directly to food that are either approved as food additives or affirmed as GRAS (21 CFR 182). Primary functions attributed to using unmodified rice starch as an ingredient in foods is as a thickener, stabilizer and gelling agent. Unmodified rice starch is derived from alkali treated (Sodium hydroxide, National List, § 205.605(b)) pulverized rice grain that is subsequently wet milled and centrifuged to separate the rice starch from the rice protein. Unmodified rice starch is a white powder, with a neutral taste and odor, and small particle size. These attributes are reportedly not available from other thickening agents that are presently included on the National List in either §§ 205.605 or 205.606.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding unmodified rice starch to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of unmodified rice starch is considered commercially unavailable for two years. In this open meeting, the NOSB evaluated unmodified rice starch against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that unmodified rice starch is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of unmodified rice starch in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow unmodified rice starch as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic'' for two years from May 15, 2007.

Sweet potato starch, for bean thread production only (no CAS #). Sweet potato starch was petitioned for use only in the production of bean thread noodles as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Sweet potato starch is used as an ingredient for use in the manufacture of bean thread noodles used in Asian cuisine. Its use in food products is regulated by FDA (21 CFR part 182). A primary purpose for adding sweet potato starch as an ingredient for bean thread noodle production is to provide texture and neutral flavor in noodle products. Many varieties of noodle products exist as a result of differences in processing, starch source and composition, and cultural cuisine preferences. In general, starches are produced by grinding a starch rich plant source followed by wet separation techniques. Dry starch is a white powder, with a neutral taste and flavor, and is relatively insoluble in cold water. Under suitable temperatures, starch can absorb a large volume of water and, depending upon its chemical composition (acetyl groups in the starch polysaccharide polymers), starch has a significant capacity to gel. Variations in starch gelling capacity contribute to variations in noodle product quality. Sweet potato starch is derived from sweet potatoes (*Ipomea batatas*), which can be grown in a variety of climates. Although there is significant organic sweet potato production, starch from organic sweet potatoes used for bean thread noodle products is considered to be limited due to a lack of available organic sweet potatoes to process for the sweet potato starch.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding sweet potato starch to the National List for use in organic handling for use in bean thread production only as a non-organic agricultural ingredient where the organic form of sweet potato starch is considered commercially unavailable. In this open meeting, the NOSB evaluated sweet potato starch against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that sweet potato starch for use in bean thread noodle production only is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of sweet potato starch for bean thread production only in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow sweet potato starch for use only in bean thread noodle production as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Turkish bay leaves (no CAS #). Turkish bay leaves were petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Turkish bay leaves are used as a flavor agent in a variety of foods such as vegetables, meats and soups. Its use as an ingredient in food products is regulated by FDA (21 CFR 182.10). Sourced from the Evergreen Bay Laurel tree grown in the Mediterranean region, Turkish bay leaves, after harvest, are dried under a specific process to enhance flavor and reduce bitterness. Dried bay leaves have lower concentrations of the bay leaf oil that provides the flavoring to foods. The leaf oil provides a sweet, lemony flavoring. Other varieties of Bay leaves

provide different flavor profiles that may be too bitter, astringent and pungent compared to Turkish bay leaves.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Turkish bay leaves to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of Turkish bay leaves is considered commercially unavailable. In this open meeting, the NOSB evaluated Turkish bay leaves against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Turkish bay leaves is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Turkish bay leaves in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Turkish bay leaves as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Wakame seaweed (*Undaria pinnatifida*) (no CAS #). Wakame seaweed was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Wakame seaweed is affirmed for use as an ingredient in Asian cuisine foods such as soups and salads. Its use in food products is regulated by FDA (21 CFR 182.10). Wakame seaweed is harvested from the coasts of Japan, Korea and China. After harvest the seaweed is washed, rinsed with a salt solution to extend shelf life, cut and dried. As an ingredient, Wakame seaweed provides a unique flavor and texture to Asian foods. Substitution of other seaweed species provides a different texture and flavor profile to foods.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Wakame seaweed to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of Wakame seaweed is considered commercially unavailable. In this open meeting, the NOSB evaluated Wakame seaweed against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Wakame seaweed is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Wakame seaweed in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Wakame seaweed as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

Whey protein concentrate, (no CAS #). Whey protein concentrations of 35% and 80% was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as ''organic.'' Whey protein concentrate is used as an ingredient in a variety of foods. Its use in food products is regulated by FDA (21 CFR 184.1979c). A primary purpose for adding whey protein concentrate as an ingredient to foods is to provide texture and consistency to foods. Whey protein concentrate can be used as a fat replacer when added to foods as it mimics some properties of fat. Whey is a liquid by-product of cheese manufacture. Removing the water from whey provides powdered whey protein concentrate. Protein content of whey protein concentrate can vary from 25 percent to 89.9 percent protein with milk fat content of whey protein concentrate at or below 10 percent. Whey protein concentrate is a white to cream color powder with little or no flavor and a pH that cannot exceed 7.0. Organic cheese manufacturers reportedly divert whey by-product to more lucrative markets than currently exist with the manufacture of whey protein concentrate, thus availability of whey by-product from organic cheese processing is considered to be very limited.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Whey protein concentrate up to 80% to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of whey protein concentrate is considered commercially unavailable. In this open meeting, the NOSB evaluated whey protein concentrate against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Whey protein concentrate is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of whey protein concentrate in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow whey protein concentrate as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as ''organic.''

III. Related Documents—FR Notices

Two notices were published regarding the meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this proposed rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 67 FR 19375, April 12, 2002, (Gelatin, Konjac flour, Orange shellac); (2) 72 FR 10971, March 12, 2007, (Casings, Celery powder, Chia (*Salvia hispanica L.*), Colors—from agricultural products: Annatto extract; Beet juice; Beta-carotene extract; Purple carrot juice; Black currant juice; Blueberry juice; Carrot juice; Cherry juice; Chokeberry/Aronia juice; Elderberry juice; Grape juice; Grape skin extract; Paprika; Pumpkin juice; Purple potato juice; Red cabbage extract; Red radish extract; Saffron; Turmeric; Dillweed oil, Fish oil, Fructooligosaccharides, Galangal—frozen, Hops, Inulin—oligofructose enriched, Lemongrass—frozen, Pepper—chipotle chile, Rice starch, Sweet potato starch, Turkish bay leaves, Wakame seaweed (*Undaria pinnatifida*), and Whey protein concentrate).

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (72 FR 2167) can be accessed through the NOP website at *http://www.ams.usda.gov/nop.*

A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new

and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under section 6514 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 6514(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under sections 6503 through 6507 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 6507(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 6519(f) of the OFPA (7 U.S.C. 6519(f)), this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 6520 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this proposed rule would not be significant. The effect of this proposed rule would be to allow the use of additional substances in agricultural production and handling. This action would modify the regulations to provide small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. This proposed rule would have an impact on a substantial number of small entities.

Based upon USDA's Economic Research Service and AMS data compiled between 2001 to 2005, the U.S. organic industry at the end of 2005 included nearly 8,500 certified organic crop and livestock operations, plus more than 2,900 handling operations. Organic crop and livestock operations reported certified acreage totaling more than 4.05 million acres of organic farm production. Total number of organic crop and livestock operations increased by more than 18 percent from 2001 to 2005, while total certified acreage more than doubled during this time period. AMS estimates that these trends continued through 2006 and will be higher in 2007.

U.S. sales of organic food and beverages have grown from $1 billion in 1990 to an estimated $14 billion in 2006. Organic food sales are projected to reach $23.8 billion for 2010. The organic industry is viewed as the fastest growing sector of agriculture, currently representing 2 percent of overall food and beverage sales. Since 1990, organic retail sales have historically demonstrated a growth rate between 20 to 24 percent each year. This growth rate is projected to decline and fall to a rate of 5 to 10 percent in the future.

In addition, USDA has accredited 99 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

Under the OFPA, no additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted to the Secretary by the NOSB. The 38 substances proposed to be added to the National List were based on petitions from the industry. The NOSB evaluated each petition using criteria in the OFPA and NOP criteria on commercially availability published in the **Federal Register**, (72 FR 2167). Because these substances are critical to organic

production and handling operations, producers and handlers should be able to use them in their operations as soon as possible. A 7-day period for interested persons to comment on this rule is provided. Interested persons have already been provided with 30 days of public comment on these 38 substances in advance of the NOSB meetings held May 6–8, 2002 and March 27–29, 2007. The NOSB considered these comments during their reviews and concluded that the petitioners had provided sufficient evidence for adding these 38 substances to the National List. Since many producers, handlers and certifying agents may have misinterpreted National List regulations § 205.606 to mean that any non-organic agricultural product that was not commercially available in organic form could be used in organic products without being individually listed on the National List, these 38 substances currently are being used in organic products. These 38 substances will be prohibited for use in organic products beginning June 9, 2007, unless they are added to the National List. Loss of the use of any of these products would disrupt the trade of food products currently being labeled as ''organic''. Therefore, the continued allowed use of these products as ingredients in foods labeled as ''organic'' is necessary to prevent possible significant business disruption for organic producers and handlers. AMS believes that a 7-day period for interested persons to comment on this proposed rule is appropriate.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, Subpart G is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

2. Section 205.606 is revised to read as follows:

§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic.''

Only the following nonorganically produced agricultural products may be used as ingredients in or on processed products labeled as ''organic,'' only in accordance with any restrictions specified in this section, and only when the product is not commercially available in organic form.

(a) Casings, from processed intestines.
(b) Celery powder.
(c) Chia (Salvia hispanica).
(d) Colors derived from agricultural products.
(1) Annatto extract (pigment CAS #1393–63–1)—water and oil soluble.
(2) Beet juice (pigment CAS #7659–95–2).
(3) Beta-carotene (CAS #1393–63–1) derived from carrots.
(4) Black currant juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(5) Black/Purple carrot juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(6) Blueberry juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(7) Carrot juice (pigment CAS #1393–63–1).
(8) Cherry juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(9) Chokeberry—Aronia juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(10) Elderberry juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(11) Grape juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(12) Grape skin extract (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(13) Paprika (CAS #68917–78–2)—dried, and oil extracted.
(14) Pumpkin juice (pigment CAS #127–40–2).
(15) Purple potato juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(16) Red cabbage extract (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(17) Red radish extract (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).
(18) Saffron (pigment CAS #1393–63–1).
(19) Turmeric (CAS #458–37–7).
(e) Dillweed oil (CAS #8006–75–5).
(f) Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8)—stabilized with organic ingredients or only with ingredients on the National List, §§ 205.605 and 205.606.
(g) Fructooligosaccharides (CAS #308066–66–2).
(h) Galangal, frozen.
(i) Gelatin (CAS #9000–70–8).
(j) Gums—water extracted only (Arabic; Guar; Locust bean; and Carob bean).
(k) Hops.
(l) Inulin—oligofructose enriched (CAS #9005–80–5).
(m) Kelp—for use only as a thickener and dietary supplement.
(n) Konjac flour (CAS #37220–17–0).
(o) Lecithin—unbleached.
(p) Lemongrass—frozen.
(q) Orange shellac—unbleached (CAS #9000–59–3).
(r) Pectin (high-methoxy).
(s) Peppers (Chipotle chile).
(t) Starches.
(1) Cornstarch (native).
(2) Rice starch, unmodified (CAS #977000–08–0)—for use in organic handling until [*date two years after effective date of final rule*].
(3) Sweet potato starch—for bean thread production only.
(u) Turkish bay leaves.
(v) Wakame seaweed (*Undaria pinnatifada*).
(w) Whey protein concentrate.

Dated: May 10, 2007.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 07–2388 Filed 5–10–07; 2:51 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–06–011]

RIN 1625–AA09

Drawbridge Operation Regulations; Little River (S–20) Bridge, Atlantic Intracoastal Waterway Mile 347.3, Horry County, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking concerning the proposed change to the regulation of the Little River (S–20) Bridge. The requested change was to place a twenty minute regulation on the bridge in lieu of ''on demand''. The withdrawal is based on limited vessel openings, comments received from the public, and the addition of a new high level fixed bridge within close proximity of the draw bridge which should help alleviate traffic congestion.

DATES: The notice of proposed rulemaking is withdrawn on May 15, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2006, we published a notice of proposed rulemaking entitled ''Drawbridge Operation Regulations; Little River (S–20) Bridge, Atlantic Intracoastal Waterway Mile 347.3, Horry County, SC'' in the **Federal Register** (71 FR 16527). The rulemaking concerned changing the current ''on demand'' schedule to an on the hour, twenty minutes past the hour and forty minutes pass the hour schedule.

Withdrawal

A new high level fixed bridge was constructed within close proximity of the moveable bridge, thereby providing an alternative for existing traffic and allowing for a reduction of vehicular traffic on the moveable bridge. The Little-River Bridge crosses the Atlantic Intracoastal Waterway and has an average of fewer than two openings per hour. Additionally, all of the comments received during the comment period of the notice of proposed rulemaking were in favor of keeping the current ''on demand'' schedule.

Authority: This action is taken under the authority of 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

Dated: September 19, 2006.

J.A. Watson,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

Editorial Note: This document was received at the Office of the Federal Register on May 10, 2007.

[FR Doc. E7–9267 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0840; FRL–8314–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Lancaster 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Associated Maintenance Plan and 2002 Base-Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Lancaster ozone nonattainment area (''Lancaster Area'' or ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). The Area is comprised of Lancaster County, Pennsylvania. EPA is proposing to approve the ozone redesignation request for the Lancaster Area. In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Lancaster Area that provides for continued attainment of the 8-hour ozone NAAQS for 11 years after redesignation. EPA is proposing to make a determination that the Lancaster Area has attained the 8-hour ozone NAAQS, based upon three years of complete, quality-assured ambient air quality monitoring data for 2003–2005. EPA's proposed approval of the 8-hour ozone redesignation request is based on its determination that the Lancaster Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA). In addition, the Commonwealth of Pennsylvania has also submitted a 2002 base-year inventory for the Lancaster Area, and EPA is proposing to approve that inventory for the Lancaster Area as a SIP revision. EPA is also providing information on the status of its adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the maintenance plan for the Lancaster Area for purposes of transportation conformity, and is also proposing to approve those MVEBs. EPA is proposing approval of the redesignation request and of the maintenance plan and 2002 base-year inventory SIP revisions in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before June 14, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0840 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: miller.linda@epa.gov*.

C. *Mail:* EPA–R03–OAR–2006–0840, Linda Miller, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0840. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is

not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. What Are the Actions EPA Is Proposing To Take?

On September 20, 2006, as supplemented on November 8, 2006, the PADEP formally submitted a request to redesignate the Lancaster Area from nonattainment to attainment of the 8-hour NAAQS for ozone. Concurrently, Pennsylvania submitted a maintenance plan for the Lancaster Area as a SIP revision to ensure continued attainment in the Area for at least 11 years after redesignation. PADEP also submitted a 2002 base-year inventory for the Lancaster Area as a SIP revision. The Lancaster Area is comprised of the County of Lancaster. It is currently designated a marginal 8-hour ozone nonattainment area. EPA is proposing to determine that the Lancaster Area has attained the 8-hour ozone NAAQS and that it has met the requirements for redesignation pursuant to section 107(d)(3)(E) of the CAA. EPA is, therefore, proposing to approve the redesignation request to change the designation of the Lancaster Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve the Lancaster maintenance plan as a SIP revision for the Area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to ensure continued attainment in the Lancaster Area for the next 11 years. EPA is also proposing to approve the 2002 base-year inventory for the Lancaster Area as a SIP revision. Additionally, EPA is announcing its action on the adequacy process for the MVEBs identified in the Lancaster Area maintenance plan, and proposing to approve the MVEBs identified for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for the Lancaster Area for transportation conformity purposes.

II. What Is the Background for These Proposed Actions?

A. General

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone. The air pollutants NO_X and VOC are referred to as precursors of ozone. The CAA establishes a process for air quality management through the attainment and maintenance of the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard. EPA designated, as nonattainment, any area violating the 8-hour ozone NAAQS based on the air quality data for the three years of 2001–2003. These were the most recent three years of data at the time EPA designated 8-hour areas. The Lancaster Area was designated a moderate 8-hour ozone nonattainment area in a **Federal Register** notice signed on April 15, 2004 and published on April 30, 2004 (69 FR 23857), based on its exceedance of the 8-hour health-based standard for ozone during the years 2001–2003. In July 2004, Pennsylvania requested that the EPA reclassify the Lancaster Area to a ''marginal'' 8-hour ozone nonattainment Area in accordance with section 181(a)(4) of the CAA, which allows a state to request reclassification if the design value in the nonattainment area is five percent greater or five percent less than the level on which the classification is based. The Lancaster Area was reclassified by EPA as a ''marginal'' 8-hour ozone nonattainment area on September 22, 2004 (69 FR 56697).

On April 30, 2004, EPA issued a final rule (69 FR 23951, 23996) to revoke the 1-hour ozone NAAQS in the Lancaster Area (as well as most other areas of the country) effective June 15, 2005. *See* 40 CFR 50.9(b); 69 FR at 23996 (April 30, 2004); 70 FR 44470 (August 3, 2005).

However, on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard, (69 FR 23951, April 30, 2004). *See South Coast Air Quality Management Dist.* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006) (hereafter ''*South Coast*.''). The Court held that certain provisions of EPA's Phase 1 Rule were inconsistent with the requirements of the Clean Air Act. The Court rejected EPA's reasons for implementing the 8-hour standard in nonattainment areas under subpart 1 in lieu of subpart 2 of Title I, part D of the Act. The Court also held that EPA improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS; and (4) the certain conformity requirements for certain types of federal actions. The Court upheld EPA's authority to revoke the 1-hour standard provided there were adequate anti-backsliding provisions. Elsewhere in this document, mainly in section VI.B, ''The Lancaster Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA,'' EPA discusses its rationale why the decision in *South Coast* is not an impediment to redesignating the Lancaster Area to attainment of the 8-hour ozone NAAQS.

The CAA, title I, part D, contains two sets of provisions—subpart 1 and subpart 2—that address planning and control requirements for nonattainment areas. Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general, less prescriptive requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for

ozone nonattainment areas. Some 8-hour ozone nonattainment areas are subject only to the provisions of subpart 1. Other areas are also subject to the provisions of subpart 2. Under EPA's 8-hour ozone implementation rule, an area was classified under subpart 2 based on its 8-hour ozone design value (*i.e.*, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration), if it had a 1-hour design value at or above 0.121 ppm (the lowest 1-hour design value in the CAA for subpart 2 requirements). All other areas were covered under subpart 1, based upon their 8-hour design values. In 2004, the Lancaster Area was classified a marginal 8-hour ozone nonattainment area based on air quality monitoring data from 2001–2003. Therefore, the Lancaster Area is subject to the requirements of subpart 2 of part D.

Under 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (*i.e.*, 0.084 ppm when rounding is considered). *See* 69 FR 23857, (April 30, 2004) for further information. Ambient air quality monitoring data for the 3-year period must meet data completeness requirements. The data completeness requirements are met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of 40 CFR part 50. The ozone monitoring data indicates that the Lancaster Area has a design value of 0.083 ppm for the 3-year period of 2003–2005, using complete, quality-assured data. Therefore, the ambient ozone data for the Lancaster Area indicates no violations of the 8-hour ozone standard.

B. The Lancaster Area

The Lancaster Area consists of the County of Lancaster, Pennsylvania. Prior to its designation as an 8-hour ozone nonattainment area, the Lancaster Area was a marginal 1-hour ozone nonattainment Area, and therefore was subject to requirements for marginal nonattainment areas pursuant to section 182(a) of the CAA. *See* 56 FR 56694 (November 6, 1991).

On September 20, 2006 and supplemented on November 8, 2006, the PADEP requested that the Lancaster Area be redesignated to attainment for the 8-hour ozone standard. The redesignation request included three years of complete, quality-assured data for the period of 2003–2005, indicating that the 8-hour NAAQS for ozone had been achieved in the Lancaster Area. The data satisfies the CAA requirements that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration (commonly referred to as the area's design value), must be less than or equal to 0.08 ppm (*i.e.*, 0.084 ppm when rounding is considered). Under the CAA, a nonattainment area may be redesignated if sufficient complete, quality-assured data is available to determine that the area has attained the standard and the area meets the other CAA redesignation requirements set forth in section 107(d)(3)(E).

III. What Are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA, allows for redesignation, providing that:

(1) EPA determines that the area has attained the applicable NAAQS;

(2) EPA has fully approved the applicable implementation plan for the area under section 110(k);

(3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(5) The State containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

- ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, June, 18, 1990;
- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
- ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
- ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni Director, Air Quality Management Division, October 28, 1992;
- ''Technical Support Documents (TSDs) for Redesignation Ozone and Carbon Monoxide
- (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
- ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael
- H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
- Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' dated November 30, 1993;
- ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
- ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why Is EPA Taking These Actions?

On September 20, 2006, the PADEP requested redesignation of the Lancaster Area to attainment for the 8-hour ozone standard. On September 20, 2006, as supplemented on November 8, 2006, PADEP submitted a maintenance plan for the Lancaster Area as a SIP revision to ensure continued attainment at least 11 years after redesignation. PADEP also submitted a 2002 base-year inventory concurrently with its maintenance plan as a SIP revision, which is an applicable requirement for the Lancaster Area for

purposes of redesignation. EPA has determined that the Lancaster Area has attained the 8-hour ozone standard and has met the requirements for redesignation set forth in section 107(d)(3)(E).

V. What Would Be the Effect of These Actions?

Approval of the redesignation request would change the official designation of the Lancaster Area from nonattainment to attainment for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Pennsylvania SIP a 2002 base-year inventory and a maintenance plan ensuring continued attainment of the 8-hour ozone NAAQS in the Lancaster Area for the next 11 years. The maintenance plan includes contingency measures to remedy any future violations of the 8-hour NAAQS (should they occur), and identifies the NO_X and VOC MVEBs for transportation conformity purposes for the years 2009 and 2018. These MVEBs are displayed in the following table:

TABLE 1.—MOTOR VEHICLE EMISSIONS BUDGETS IN TONS PER DAY (TPD)

Year	VOC	NO_X
2009	14.3	22.3
2018	7.8	9.0

VI. What Is EPA's Analysis of the Commonwealth's Request?

EPA is proposing to determine that the Lancaster Area has attained the 8-hour ozone standard, and that all other redesignation criteria have been met. The following is a description of how the PADEP's September 20, 2006 and November 8, 2006 submittals satisfy the requirements of section 107(d)(3)(E) of the CAA.

A. The Lancaster Area Has Attained the 8-Hour Ozone NAAQS

EPA is proposing to determine that the Lancaster Area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of Part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the design value, which is the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor, within the area, over each year must not exceed the ozone standard of 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In the Lancaster Area, there is one ozone monitor, located in Lancaster County that measures air quality with respect to ozone. As part of its redesignation request, Pennsylvania referenced ozone monitoring data for the years 2003–2005 for the Lancaster Area. This data has been quality assured and is recorded in the AQS. The fourth-high 8-hour daily maximum concentrations, along with the three-year average are summarized in Table 2.

TABLE 2.—LANCASTER AREA FOURTH HIGHEST 8-HOUR AVERAGE VALUES LANCASTER COUNTY MONITOR/AQS ID 42–071–0007

Year	Annual 4th highest reading (ppm)
2003	0.083
2004	0.081
2005	0.085

The average for the 3-year period 2003–2005 is 0.083 ppm.

The air quality data for 2003–2005 show that the Lancaster Area has attained the 8-hour standard with a design value of 0.083 ppm. The data collected at the Lancaster Area monitor satisfies the CAA requirement that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. EPA believes this conclusion remains valid after review of the available 2006 data because the design value for 2004–2006 would be 0.083 ppm. The PADEP's request for redesignation for the Lancaster Area indicates that the data is complete and was quality assured in accordance with 40 CFR part 58. The PADEP uses the AQS as the permanent database to maintain its data and quality assures the data transfers and content for accuracy. In addition, as discussed below with respect to the maintenance plan, PADEP has committed to continue monitoring in accordance with 40 CFR part 58. In summary, EPA has determined that the data submitted by Pennsylvania and data taken from AQS indicate that the Lancaster Area has attained the 8-hour ozone NAAQS.

B. The Lancaster Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA

EPA has determined that the Lancaster Area has met all SIP requirements applicable for purposes of this redesignation under section 110 of the CAA (General SIP Requirements) and that it meets all applicable SIP requirements under part D of Title I of the CAA, in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Lancaster Area and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to applicable requirements.

The September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, States requesting redesignation to attainment must meet only the relevant CAA requirements that came due prior to the submittal of a complete redesignation request. *See also,* Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor). Requirements of the CAA that are applicable subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). *See also,* 68 FR at 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

This section also sets forth EPA's views on the potential effect of the Court's ruling in *South Coast* on this redesignation action. For the reasons set forth below, EPA does not believe that the Court's ruling alters any requirements relevant to this redesignation action so as to preclude redesignation, and does not prevent EPA from finalizing this redesignation.

EPA believes that the Court's decision, as it currently stands or as it may be modified based upon any petition for rehearing that has been filed, imposes no impediment to moving forward with the redesignation of this Area to attainment, because in either circumstance, redesignation is appropriate under the relevant redesignation provisions of the Act and longstanding policies regarding redesignation requests.

1. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD));
- Provisions for the implementation of part D requirements for New Source Review (NSR) permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a State from significantly contributing to air quality problems in another State. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants in accordance with the NO_X SIP Call, October 27, 1998 (63 FR 57356), amendments to the NO_X SIP Call, May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222), and the Clean Air Interstate Rule (CAIR), May 12, 2005 (70 FR 25162). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular nonattainment area's designation and classification in that State. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the State.

Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Lancaster Area will still be subject to these requirements after it is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (*i.e.*, for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also*, the discussion on this issue in the Cincinnati redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh redesignation (66 FR at 53099, October 19, 2001). Similarly, with respect to the NO_X SIP Call rules, EPA noted in its Phase 1 Final Rule to Implement the 8-hour Ozone NAAQS, that the NO_X SIP Call rules are not ''an'' 'applicable requirement' for purposes of section 110(1) because the NO_X rules apply regardless of an area's attainment or nonattainment status for the 8-hour (or the 1-hour) NAAQS.'' 69 FR 23951, 23983 (April 30, 2004).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. As explained later in this notice, two part D requirements applicable for purposes of redesignation under the 8-hour standard became due prior to the submission of the redesignation request.

2. Part D Requirements Under the 8-Hour Standard

Pursuant to an April 30, 2004, final rule (69 FR 23951), the Lancaster Area was designated a marginal nonattainment area under subpart 2 for the 8-hour ozone standard. Sections 172–176 of the CAA, found in subpart 1 of part D, set forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's nonattainment classification.

With respect to the 8-hour standard, we do not believe that any part of the court's opinion in *South Coast* would require that this subpart 2 classification be changed upon remand to EPA. However, even assuming for present purposes that the Lancaster Area would become subject to a different classification under a classification scheme created in a future role in response to the court's decision, that would not prevent EPA from finalizing a redesignation for this area. For the reasons set forth below, we believe that any additional requirements that might apply based on that different classification would not be applicable for purposes of evaluating the redesignation request.

This belief is based upon (1) EPA's longstanding policy of evaluating redesignation requests in accordance only with the requirements due at the time the request was submitted; and (2) consideration of the inequity of applying retroactively any requirements that might be applied in the future.

First, at the time the redesignation request was submitted, the Lancaster Area was classified under subpart 2 and was required to meet the subpart 2 requirements. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the Clean Air Act, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division). See also, Michael Shapiro Memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004) (which upheld this interpretation); 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted, but which might later become applicable. The D.C. Circuit has recognized the inequity in such retroactive rulemaking. *See, Sierra Club* v. *Whitman*, 285 F.3d 63 (D.C. Cir. 2002), in which the D.C. Circuit upheld a District Court's ruling refusing to make retroactive an EPA

determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory time frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the States, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' *Id* at 68. Similarly, here it would be unfair to penalize the Area by applying to it for purposes of redesignation any additional requirements that were not in effect at the time it submitted its redesignation request, but that might apply in the future.

With respect to the 8-hour standard, two part D subpart 2 requirements became due for the Lancaster Area under section 182(a) of the CAA prior to redesignation—a 2002 base-year inventory, and the emissions statement requirement pursuant to section 182(a)(3)(B). Pennsylvania already has in its approved SIP an emissions statement rule for the 1-hour standard that covers all portions of the designated 8-hour nonattainment area, and that satisfies the emissions statement requirement for the 8-hour standard. *See*, 25 Pa. Code 135.21(a)(1) codified at 40 CFR 52.2020; 60 FR 2881, January 12, 1995. EPA is proposing to approve the 2002 base-year inventory for the Lancaster Area, which was submitted on September 30, 2006, and supplemented on November 8, 2006, concurrently with its maintenance plan, into the Pennsylvania SIP. A detailed evaluation of Pennsylvania's 2002 base-year inventory for the Lancaster Area can be found in a Technical Support Document (TSD) prepared by EPA for this rulemaking. EPA has determined that the emission inventory and emissions statement requirements for the Lancaster Area have been satisfied.

EPA believes it is reasonable to interpret the general conformity and NSR requirements of part D as not requiring approval prior to redesignation. With respect to section 176, Conformity Requirements, section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (''transportation conformity'') as well as to all other Federally supported or funded projects (''general conformity''). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required the EPA to promulgate. EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) since State conformity rules are still required after redesignation and Federal conformity rules apply where State rules have not been approved. *See, Wall* v. *EPA*, 265 F. 3d 426, 438–440 (6th Cir. 2001), upholding this interpretation. See also, 60 FR 62748 (December 7, 1995).

In the case of the Lancaster Area, which is located in the Ozone Transport Region (OTR), nonattainment NSR requirements will continue to be applicable after redesignation. On October 19, 2001 (66 FR 53094), EPA approved Pennsylvania's NSR SIP revision for the Lancaster Area. This revision imposes the OTR NSR requirements in marginal and incomplete data ozone nonattainment areas and ozone attainment areas within the Commonwealth. The OTR requirements are more stringent than those required in marginal ozone nonattainment areas because a lower threshold for what constitutes a major stationary source of VOC emissions is required and a higher offset ratio is required. Pennsylvania's NSR SIP also imposes the NSR requirements on major sources of NO_X emissions as required by section 182(f) of the CAA.

EPA has also interpreted the section 184 OTR requirements, including the NSR program, as not being applicable for purposes of redesignation. The rationale for this is based on two considerations. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the State remains obligated to have NSR, as well as reasonably available control technology (RACT), and Vehicle Inspection and Maintenance programs even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to Lancaster by virtue of the Area's designation and classification. *See*, 61 FR 53174, 53175–53176 (October 10, 1996) and 62 FR 24826, 24830–32 (May 7, 1997).

3. Part D Requirements Under the 1-Hour Standard

In its December 22, 2006 decision in *South Coast*, the Court also addressed EPA's revocation of the 1-hour ozone standard. The current status of the revocation and associated anti-backsliding rules is dependent on whether the Court's decision stands as originally issued or is modified in response to any petition for rehearing or request for clarification that has been filed. As described more fully below, EPA believes that the Area has attained the 1-hour standard and has met all of the requirements under the 1-hour standard that would apply even if the 1-hour standard is deemed to be reinstated and, those requirements are viewed as applying under the statute itself. Thus, the Court's decision, as it currently stands, imposes no impediment to moving forward with the redesignation of this Area to attainment of the 8-hour standard. Further, even if the court's decision were modified based upon any petition for rehearing that has been filed, such that the ultimate decision requires something less than compliance with all applicable 1-hour requirements, since the area meets all such requirements as explained below, it would certainly meet any lesser requirements and thus similarly redesignation could proceed.

The conformity portion of the Court's ruling does not impact the redesignation request for the Lancaster Area because there are no conformity requirements that are relevant to a redesignation request for any standard, including the requirement to submit a transportation conformity SIP.[1] As we have previously noted, under longstanding EPA policy, EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. 40 CFR 51.390. *See, Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See, also*, 60 FR 62748 (December 7, 1995) (Tampa, Florida redesignation).

With respect to the requirement for submission of contingency measures for the 1-hour standard, section 182(a) does not require contingency measures for

[1] The Clean Air Act section 176(c)(4)(E) currently requires States to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the motor vehicle emissions budgets that are established in control strategy SIPs and maintenance plans.

marginal areas, and, therefore, that portion of the Court's ruling does not impact the redesignation request for the Lancaster Area.

Prior to its designation as an 8-hour ozone nonattainment area, the Lancaster Area was designated a marginal nonattainment area for the 1-hour standard. With respect to the 1-hour standard, the applicable requirements of subpart 1 and of subpart 2 of part D (section 182) for the Lancaster Area are discussed in the following paragraphs:

Section 182(a)(2)(A) required SIP revisions to correct or amend RACT for sources in marginal areas, such as the Lancaster Area, that were subject to control technique guidelines (CTGs) issued before November 15, 1990 pursuant to CAA section 108. On December 22, 1994, EPA fully approved into the Pennsylvania SIP all corrections required under section 182(a)(2)(A) of the CAA (59 FR 65971, December 22, 1994). EPA believes that this requirement applies only to marginal and higher classified areas under the 1-hour NAAQS pursuant to the 1990 amendments to the CAA; therefore, this is a one-time requirement. After an area has fulfilled the section 182(a)(2)(A) requirement for the 1-hour NAAQS, there is no requirement under the 8-hour NAAQS.

Section 182(a)(2)(B) relates to the savings clause for vehicle inspection and maintenance (I/M). It requires marginal areas to adopt vehicle I/M programs. This provision was not applicable to the Lancaster Area because this area did not have and was not required to have an I/M program before November 15, 1990.

Section 182(a)(3)(A) requires a triennial Periodic Emissions Inventory for the nonattainment area. The most recent inventory for the Lancaster Area was compiled for 2002 and submitted to EPA as a SIP revision with the maintenance plan for the Lancaster Area.

Section 182(a)(2)(C) required Pennsylvania to adopt a NSR Permit Program or to correct its existing program to meet EPA guidance requirements issued prior to 1990. As discussed previously, EPA believes it is reasonable to interpret the NSR requirements of part D as not requiring approval prior to redesignation. However, as noted previously, EPA has fully approved Pennsylvania's NSR program for the Lancaster Area.

Section 182(a)(3)(B) requires sources of VOCs and NO_X in the nonattainment area to submit Emissions Statements regarding the quantity of emissions from the previous year. As discussed previously, Pennsylvania already has in its approved SIP a previously approved emissions statement rule for the 1-hour standard which applies to the Lancaster Area.

Section 182(a)(1) provides for the submission of a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator. In this proposed rule, EPA is proposing to approve a 2002 base-year emissions inventory for the Lancaster Area as meeting the requirement of section 182(a)(1). While EPA generally required that the base-year inventory for the 1-hour standard be for calendar year 1990, EPA believes that Pennsylvania's 2002 inventory fulfills this requirement because it meets EPA's guidance and because it is more up to date than 1990. EPA also proposes to determine that, if the 1-hour standard is deemed to be reinstated, the 2002 base-year inventory for the 8-hour standard will provide an acceptable substitute for the base-year inventory for the 1-hour standard.

As noted previously, EPA believes it is reasonable to interpret the general conformity requirements of part D as not requiring approval prior to redesignation.

EPA has previously determined that the Lancaster Area has attained the 1-hour ozone NAAQS by the November 15, 1993 attainment date (60 FR 3349, January 17, 1995), and we further believe that the Lancaster Area is still in attainment for the 1-hour ozone NAAQS based upon the ozone monitoring data for the years 2003–2005. To demonstrate attainment, *i.e.*, compliance with this standard, the annual average of the number of expected exceedances of the 1-hour standard over a three-year period must be less than or equal to 1. Table 3 provides a summary of the number of expected exceedances for each of the years 2003 through 2005 and three-year annual average.

TABLE 3.—LANCASTER NONATTAINMENT AREA NUMBER OF EXPECTED EXCEEDANCES OF THE 1-HOUR OZONE STANDARD; LANCASTER COUNTY MONITOR/AQS ID 42–071–0007

Year	Number of expected exceedances
2003	1.0
2004	0.0
2005	0.0

The average number of expected exceedances for the 3-year period 2003 through 2005 is 0.3.

In summary, EPA has determined that the data submitted by Pennsylvania and taken from AQS indicates that the Lancaster Area is maintaining air quality that conforms to the 1-hour ozone NAAQS. EPA believes this conclusion remains valid after review of the available 2006 data because no exceedances were recorded in the Lancaster Area in 2006.

4. Transport Region Requirements

All areas in the Ozone Transport Region (OTR), both attainment and nonattainment, are subject to additional control requirements under section 184 for the purpose of reducing interstate transport of emissions that may contribute to downwind ozone nonattainment. The section 184 requirements include RACT, enhanced vehicle inspection and maintenance, and Stage II vapor recovery or a comparable measure.

In the case of the Lancaster Area, which is located in the OTR, nonattainment NSR will be applicable after redesignation. On October 19, 2001 (66 FR 53094), EPA fully approved Pennsylvania's NSR SIP revision consisting of Pennsylvania's Chapter 127 part D NSR regulations that cover the Lancaster Area. The Chapter 127 part D NSR regulations in the Pennsylvania SIP explicitly apply the requirements for NSR of section 184 of the CAA to attainment areas within the OTR.

EPA has also interpreted the section 184 OTR requirements, including the NSR program, as not being applicable for purposes of redesignation. *See*, 61 FR 53174, October 10, 1996 and 62 FR 24826, May 7, 1997 (Reading, Pennsylvania Redesignation). The rationale for this is based on two considerations. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the State remains obligated to have NSR, as well as RACT, and I/M even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to the Area by virtue of the Area's designation and classification. *See,* 61 FR 53174 at 53175–53176 (October 10, 1996) and 62 FR 24826 at 24830–24832 (May 7, 1997).

5. Lancaster Has a Fully Approved SIP for Purposes of Redesignation

EPA has fully approved the Pennsylvania SIP for the purposes of this redesignation. EPA may rely on prior SIP approvals in approving a redesignation request, Calcagni Memo, p.3; *Southwestern Pennsylvania Growth*

Alliance v. *Browner*, 144 F. 3d 984, 989–90 (6th Cir. 1998), *Wall* v. *EPA*, 265 F. 3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. *See*, 68 FR at 25425 (May 12, 2003) and citations therein.

The Lancaster Area was a 1-hour ozone marginal nonattainment area at the time of its designation as a marginal 8-hour ozone nonattainment area on September 22, 2004 (69 FR 56697). As stated previously, two subpart 2 part D requirements became due for the Lancaster Area prior to redesignation—a 2002 base-year inventory, and the emissions statement requirement. PADEP has submitted concurrently with its maintenance plan, a 2002 base-year inventory as a SIP revision. In this action, EPA is proposing approval of this inventory. The emissions statement requirement for Lancaster was fulfilled under the 1-hour standard. Because there are no outstanding SIP submission requirements applicable for the purposes of the redesignation of Lancaster, the applicable implementation plan satisfies all pertinent SIP requirements.

C. The Air Quality Improvement in the Lancaster Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

EPA believes that the Commonwealth has demonstrated that the observed air quality improvement in the Lancaster Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures. Emissions reductions attributable to these rules are shown in Table 4.

TABLE 4.—TOTAL VOC AND NO_X EMISSIONS FOR 2002 AND 2004 IN TONS PER DAY (TPD)

Year	Point*	Area	Nonroad	Mobile	Total
Volatile Organic Compounds (VOC)					
2002	8.5	24.5	17.4	23.4	73.8
2004	8.1	24.4	17.3	19.8	69.6
Diff. (02–04)	0.4	0.1	0.1	3.6	4.2
Nitrogen Oxides (NO_X)					
2002	3.6	2.6	13.7	36.9	56.8
2004	3.9	2.6	13.2	32.3	52.0
Diff (02–04)	−03	0.0	0.5	4.6	4.8

*The stationary point source emissions shown here do not include banked emission credits of 3.7 tpd of VOC and 11 tpd of NO_X as indicated in Technical Appendix A–4 to Pennsylvania's SIP submission.

Between 2002 and 2004, VOC emissions decreased by 5.7 percent from 73.8 tpd to 69.6 tpd; NO_X emissions decreased by 8.4 percent from 56.8 tpd to 52.0 tpd. These reductions, and anticipated future reductions, are due to the following permanent and enforceable measures.

1. Stationary Point Sources

Interstate Pollution Transport Reduction (66 FR 43795, August 21, 2001)

2. Stationary Area Sources

Solvent Cleaning (68 FR 2206, January 16, 2003)
Portable Fuel Containers (69 FR 70893, December 8, 2004)

3. Highway Vehicle Sources

Federal Motor Vehicle Control Programs (FMVCP)
—Tier 1 (56 FR 25724, June 5, 1991)
—Tier 2 (65 FR 6698, February 10, 2000)
Heavy-duty Engine and Vehicle Standards (62 FR 54694, October 21, 1997, and 65 FR 59896, October 6, 2000)
National Low Emission Vehicle (NLEV) Program (64 FR 72564, December 28, 1999) Vehicle Emission Inspection/Maintenance Program (70 FR 58313, October 6, 2005)

4. Non-Road Sources

Nonroad Diesel Engine and Fuel (69 FR 38958, June 29, 2004)

EPA believes that permanent and enforceable emissions reductions are the cause of the long-term improvement in ozone levels and are the cause of the area achieving attainment of the 8-hour ozone standard.

D. The Lancaster Area Has a Fully Approvable Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate the Lancaster Area to attainment status, Pennsylvania submitted a SIP revision to provide for maintenance of the 8-hour ozone NAAQS in the Lancaster Area for at least 11 years after redesignation. Pennsylvania is requesting that EPA approve this SIP revision as meeting the requirement of section 175A of the CAA. Once approved, the maintenance plan for the 8-hour ozone NAAQS will ensure that the SIP for the Lancaster Area meets the requirements of the CAA regarding maintenance of the applicable 8-hour ozone standard.

What Is Required in a Maintenance Plan?

Section 175 of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the next 10-year period following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memo provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address the following provisions:

(a) An attainment emissions inventory;

(b) A maintenance demonstration;

(c) A monitoring network;

(d) Verification of continued attainment; and

(e) A contingency plan.

Analysis of the Lancaster Area Maintenance Plan

(a) Attainment inventory—An attainment inventory includes the emissions during the time period associated with the monitoring data showing attainment. An attainment year of 2004 was used for the Lancaster Area since it is a reasonable year within the 3-year block of 2003–2005 and accounts for reductions attributable to implementation of the CAA requirements to date.

The 2002 and 2004 point source data was compiled from actual sources. Pennsylvania requires owners and operators of larger facilities to submit annual production figures and emission calculations each year. Throughput data are multiplied by emission factors from Factor Information Retrieval (FIRE) Data Systems and EPA's publication series AP–42, and are based on Source Classification Codes (SCC). The 2002 area source data was compiled using county-level activity data, from census numbers, from county numbers, etc. The 2004 area source data was projected from the 2002 inventory using temporal allocations provided by the Mid-Atlantic Regional Air Management Association (MARAMA).

The on-road mobile source inventories for 2002 and 2004 were compiled using MOBILE6.2 and PENNDOT estimates for VMT. The PADEP has provided detailed data summaries to document the calculations of mobile on-road VOC and NO_X emissions for 2002, as well as for the projection years of 2004, 2009, and 2018 (shown in Tables 4 and 5 below). The 2002 and 2004 emissions for the majority of non-road emission source categories were estimated using the EPA NONROAD 2005 model. The NONROAD model calculates emissions for diesel, gasoline, liquefied petroleum gasoline, and compressed natural gas-fueled non-road equipment types and includes growth factors. The NONROAD model does not estimate emissions from locomotives or aircraft. For 2002 and 2004 locomotive emissions, the PADEP projected emissions from a 1999 survey using national fuel consumption information and EPA emission and conversion factors. There are no commercial aircraft operations in Lancaster County. For 2002 and 2004 aircraft emissions, PADEP estimated emissions using small airport operations statistics and emission factors and operational characteristics in the EPA-approved model, Emissions and Dispersion Modeling System (EDMS).

More detailed information on the compilation of the 2002, 2004, 2009, and 2018 inventories can be found in the Technical Appendices which are part of this submittal.

(b) Maintenance Demonstration—On September 20, 2006, and supplemented on November 8, 2006, the PADEP submitted a maintenance plan as a SIP revision as required by section 175A of the CAA. The Lancaster Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that current and future emissions of VOC and NO_X remain at or below the attainment year 2004 emissions levels throughout the Lancaster Area through the year 2018. A maintenance demonstration need not be based on modeling. *See, Wall* v. *EPA, supra; Sierra Club* v. *EPA, supra. See also,* 66 FR at 53099–53100; 68 FR at 25430–25432.

Tables 5 and 6 specify the VOC and NO_X emissions for the Lancaster Area for 2004, 2009, and 2018. The PADEP chose 2009 as an interim year in the maintenance demonstration period to demonstrate that the VOC and NO_X emissions are not projected to increase above the 2004 attainment level during the time of the maintenance period.

TABLE 5.—TOTAL VOC EMISSIONS FOR 2004–2018 (TPD)

Source category	2004 VOC emissions	2009 VOC emissions	2018 VOC emissions
Point*	8.1	8.7	11.0
Area	24.4	24.2	27.2
Mobile	19.8	14.3	7.8
Nonroad	17.3	15.0	11.9
Total	69.6	62.2	57.9

*The stationary point source emissions shown here do not include available banked emission credits as indicated in Appendix A–4 submitted with the maintenance plan.

TABLE 6.—TOTAL NO_X EMISSIONS FOR 2004–2018 (TPD)

Source category	2004 NO_X emissions	2009 NO_X emissions	2018 NO_X emissions
Point*	3.9	4.1	4.6
Area	2.6	2.8	2.9
Mobile	32.3	22.3	9.0
Non-road	13.2	10.8	6.8
Total	52.0	39.9	23.2

*The stationary point source emissions shown here do not include available banked emission credits as indicated in Appendix A–4.

The following programs are permanent and enforceable control measures to ensure emissions during the maintenance period are equal to or less than the emissions in the attainment year:

- The Clean Air Interstate Rule (CAIR) (71 FR 25328, April 28, 2006)
- The Federal NO_X SIP Call (66 FR 43795, August 21, 2001)
- Pennsylvania's Portable Fuel Containers (December 8, 2004, 69 FR 70893)
- Pennsylvania's Consumer Products (December 8, 2004, 69 FR 70895)

• Pennsylvania's Architectural and Industrial Maintenance (AIM) Coatings (November 23, 2004, 69 FR 68080)

Additionally, the following mobile programs are either effective or due to become effective and will further contribute to the maintenance demonstration of the 8-hour ozone NAAQS:

• FMVCP for passenger vehicles and light-duty trucks and cleaner gasoline (2009 and 2018 fleet)—Tier 1 (56 FR 25724, June 5, 1991) and Tier 2 (65 FR 6698, February 10, 2000)

• Federal NLEV (64 FR 72564, December 28, 1999)

• PA Clean Vehicle Program (December 9, 2006)-Pennsylvania will implement this program in car model year 2008.

• Heavy-duty diesel on-road (2004/2007) and low-sulfur on-road (2006) (66 FR 5002, January 18, 2001)

• Non-road emissions standards (2008) and off-road diesel fuel (2007/2010) (69 FR 38958, June 29, 2004)

• Vehicle emission/inspection/maintenance program (70 FR 58313, October 6, 2005)

• Pennsylvania Heavy-Duty Diesel Emissions Control Program. (May 11, 2002)

Based upon the comparison of the projected emissions and the attainment year emissions along with the additional measures, EPA concludes that PADEP has successfully demonstrated that the 8-hour ozone standard should be maintained in the Lancaster Areas.

(c) Monitoring Network—There is currently one monitor measuring ozone in the Lancaster Area. PADEP will continue to operate its current air quality monitor (located in Lancaster County), in accordance with 40 CFR part 58.

(d) Verification of Continued Attainment—The Commonwealth will track the attainment status of the ozone NAAQS in the Lancaster Area by reviewing air quality and emissions during the maintenance period. The Commonwealth will perform an annual evaluation of Vehicle Miles Traveled (VMT) data and emissions reported from stationary sources, and compare them to the assumptions about these factors used in the maintenance plan. The Commonwealth will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, subpart A) to see if the Area exceeds the attainment year inventory (2004) by more than 10 percent. Based on these evaluations, the Commonwealth will consider whether any further emission control measures should be implemented.

(e) The Maintenance Plan's Contingency Measures—The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that the State will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

The ability of the Lancaster Area to stay in compliance with the 8-hour ozone standard after redesignation depends upon VOC and NO_X emissions in the Area remaining at or below 2004 levels. The Commonwealth's maintenance plan projects VOC and NO_X emissions to decrease and stay below 2004 levels through the year 2018. The Commonwealth's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur.

Contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the Lancaster monitor are above 84 ppb. If this trigger point occurs, the Commonwealth will evaluate whether additional local emission control measures should be implemented in order to prevent a violation of the air quality standard. PADEP will also analyze the conditions leading to the excessive ozone levels and evaluate which measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of Federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing any selected measures.

Contingency measures will be considered in the event that a violation of the 8-hour ozone standard occurs at the Lancaster County, Pennsylvania monitor. In the event of a violation of the 8-hour ozone standard, contingency measures will be adopted in order to return the Area to attainment with the standard. Contingency measures to be considered for the Lancaster Area will include, but not be limited to the following:

Regulatory measures:

—Additional controls on consumer products.

—Additional controls on portable fuel containers

Non-Regulatory measures:

—Voluntary diesel engine ''chip reflash''—installation software to correct the defeat device option on certain heavy-duty diesel engines.

—Diesel retrofit, including replacement, repowering or alternative fuel use, for public or private local on-road or off-road fleets.

—Idling reduction technology for Class 2 yard locomotives.

—Idling reduction technologies or strategies for truck stops, warehouses and other freight-handling facilities.

—Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment.

—Additional promotion of alternative fuel (*e.g.*, biodiesel) for home heating and agricultural use.

The plan lays out a process to have any regulatory contingency measures in effect within 19 months of the trigger. The plan also lays out a process to implement the non-regulatory contingency measures within 12–24 months of the trigger.

VII. Are the Motor Vehicle Emissions Budgets Established and Identified in the Lancaster Maintenance Plan Adequate and Approvable?

A. What Are the Motor Vehicle Emissions Budgets?

Under the CAA, States are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (i.e., RFP SIPs and attainment demonstration SIPs) and maintenance plans identify and establish MVEBs for certain criteria pollutants and/or their precursors to address pollution from on-road mobile sources. In the maintenance plan, the MVEBs are termed ''on-road mobile source emission budgets.'' Pursuant to 40 CFR part 93 and § 51.112, MVEBs must be established in an ozone maintenance plan. A MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. A MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish and revise the MVEBs

in control strategy SIPs and maintenance plans.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. ''Conformity'' to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of or reasonable progress towards the NAAQS. If a transportation plan does not ''conform,'' most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of such transportation activities to a SIP.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein ''adequate'' for use in determining transportation conformity. After EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by state and federal agencies in determining whether proposed transportation projects ''conform'' to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining ''adequacy'' of a MVEB are set out in 40 CFR 93.118(e)(4).

EPA's process for determining ''adequacy'' consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' on July 1, 2004 (69 FR 40004). EPA consults this guidance and follows this rulemaking in making its adequacy determinations.

The MVEB for the Lancaster Area are listed in Table 1 of this document for the 2009 and 2018 years, and are the projected emissions for the on-road mobile sources plus any portion of the safety margin allocated to the MVEBs. These emission budgets, when approved by EPA, must be used for transportation conformity determinations.

B. What Is a Safety Margin?

A safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The safety margin is the extra emissions that can be allocated as long as the total attainment level of emissions is maintained. The credit, or a portion thereof, can be allocated to any of the source categories. PADEP is at this time preserving the entire difference between attainment and projected maintenance year emissions to ensure continued maintenance of the standard.

C. Why Are the MVEBs Approvable?

The 2009 and 2018 MVEBs for the Lancaster Area are approvable because the MVEBs for NO_X and VOCs continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations.

D. What Is the Adequacy and Approval Process for the MVEBs in the Lancaster Maintenance Plan?

The MVEBs for the Lancaster Area maintenance plan are being posted to EPA's conformity Web site concurrently with this proposal. The public comment period will end at the same time as the public comment period for this proposed rule. In this case, EPA is concurrently processing the action on the maintenance plan and the adequacy process for the MVEBs contained therein. In this proposed rule, EPA is proposing to find the MVEBs adequate and also proposing to approve the MVEBs as part of the maintenance plan. The MVEBs cannot be used for transportation conformity until the maintenance plan and associated MVEBs are approved in a final **Federal Register** notice, or EPA otherwise finds the budgets adequate in a separate action following the comment period.

If EPA receives adverse written comments with respect to the proposed approval of the Lancaster MVEBs, or any other aspect of our proposed approval of this updated maintenance plan, we will respond to the comments on the MVEBs in our final action or proceed with the adequacy process as a separate action. Our action on the Lancaster Area MVEBs will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/index.htm* (once there, click on ''Adequacy Review of SIP Submissions'').

VIII. Proposed Actions

EPA is proposing to determine that the Lancaster Area has attained the 8-hour ozone NAAQS. EPA is also proposing to approve the redesignation of the Lancaster Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA has evaluated Pennsylvania's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Lancaster Area has attained the 8-hour ozone standard. The final approval of this redesignation request would change the designation of the Lancaster Area from nonattainment to attainment for the 8-hour ozone standard. EPA is also proposing to approve the associated maintenance plan for the Lancaster Area, submitted on September 20, 2006, and supplemented on November 8, 2006, as a revision to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan for the Lancaster Area because it meets the requirements of section 175A as described previously in this notice. EPA is also proposing to approve the 2002 base-year inventory for the Lancaster Area, and the MVEBs submitted by Pennsylvania for the Lancaster Area in conjunction with its redesignation request. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable

duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard. In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This rule, proposing to approve the redesignation of the Lancaster Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year inventory, and the MVEB identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: May 4, 2007.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. E7–9296 Filed 5–14–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 061219338–6338–01; I.D. 120806A]

RIN 0648–AU69

Fisheries off West Coast States and in the Western Pacific; Amendment 15

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

ACTION: Proposed rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) requests public comments on a proposed rule to implement Amendment 15 to the Pacific Coast Salmon Fisheries Management Plan (Plan) in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This Amendment was approved by NMFS on March 22, 2007, and in accordance with the notification procedures of the Magnuson-Stevens Act the Pacific Fishery Management Council (PFMC) was notified of this approval. This action is intended to provide management flexibility in times of low Klamath River fall-run Chinook (KRFC) abundance, while preserving the long-term productive capacity of the stock and thereby ensuring it continues to contribute meaningfully to ocean and river fisheries in the future.

DATES: A notice of availability (NOA) of Amendment 15 was published on December 20, 2006 under the RIN 0648–AV07. Written comments on the amendment's NOA were due February 20, 2007. Written comments on this proposed rule must be received by June 28, 2007.

ADDRESSES: You may submit comments, identified by ''I.D. 120806A'' by an of the following methods:

- Email: *salmon2006amend15@noaa.gov*
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include ''I.D. 120806A'' in the subject line of the message.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070; or to Rodney R. McInnis, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.
- Fax: 206–526–6426

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey by phone at 206-526–6140, fax 206–526–6736 and email at *sarah.mcavinchey@noaa.gov*, or Eric Chavez by phone at 508–980–4064, email at *eric.chavez@noaa.gov*, fax 508–908–4047 or contact Pacific Fishery Management Council by phone at 503–820–2290 or by fax at 503–820–2299.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Salmon Fishery Management Plan (FMP) was developed by the Pacific Fishery Management Council (PFMC or Council) under the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and approved by the Secretary in 1978. Since then, the FMP has been amended 14 times, with implementing regulations codified at 50 CFR part 660, subpart H. From 1979 to 1983, the FMP was amended annually. In 1984, a framework amendment was implemented that provided the mechanism for making preseason and inseason adjustments in the regulations without annual amendments.

Amendment 9 to the FMP was approved in 1988 and implemented in ocean fishing regulations effective May 1, 1989. This Salmon FMP amendment codified the harvest rate management

approach developed by the Klamath River Salmon Management Group (KRSMG)and approved by the Klamath Fishery Management Council and the Council. It called for the regulation of ocean fisheries to meet a spawner reduction rate of up to 65 percent (later increased to 67 percent) of each brood of KRFC except that 35,000 naturally spawning adults would be protected in all years, creating a conservation floor. In the Klamath Basin, ''natural'' spawners refers to spawning location, not to parental origin; i.e., hatchery origin fish spawning in a natural stream are counted as natural spawners. Various allowable ocean and river harvest rate combinations were specified in the Salmon FMP. The tribal and non-tribal harvest sharing agreement in effect at the time allowed for ocean and river harvest rates of up to 35 percent and 50 percent, respectively, based on age–4 fish. The harvest rate approach was adopted because of uncertainty in the capacity of the Basin for fall-run Chinook salmon. The harvest rate plan recommended by the Klamath River Technical Team was subsequently adopted as part of Salmon Plan Amendment 9. The Council concluded that inclusion of the conservation floor protected the stock by reducing the risk of prolonged depressed production, provided greater long term yield, and resulted in a high probability of attaining sufficient escapement for hatchery production. When the escapement floor was adopted into the Salmon FMP through Amendment 9, the Council required that modification of the floor could only occur by Plan amendment.

Under the FMP a conservation alert is triggered when the projected stock abundance is less than 35,000 natural spawners. When a conservation alert is triggered, the FMP requires closure of all salmon fisheries within the Council's jurisdiction that impact the stock.

The Council prepared Amendment 15 to the FMP under the provisions of the Magnuson-Stevens Act and submitted it for review by the Secretary. A NOA for Amendment 15 was filed with the Office of the Federal Register on December 19, 2006, announcing a public comment period.

The impetus for this initiative began in 2005 because management measures adopted to protect Klamath River fall-run Chinook salmon (KRFC) reduced access to a projected high ocean abundance of Sacramento River fall-run Chinook salmon. The need was elevated in 2006 when projected low abundance of KRFC led the Council and NMFS to conclude that even more restrictive management measures were needed. NMFS' implementing rules do not allow for any level of minimal or limited catch of KRFC when the projected stock abundance is less than 35,000 natural spawners (Conservation Alert Standard); the only option to allow for such fishing is to amend the FMP following the Magnuson-Stevens Act procedures or to implement an emergency rule.

In 2006, the status of KRFC included a failure to meet the 35,000 natural spawner escapement floor for the stock for the past two years, and a projected natural spawner escapement of less than 35,000 natural spawners. After reviewing the available data on the stock during its March and April meetings, and in collaboration with NMFS, the states, tribes, and ocean fishermen, the Council determined that conditions in 2006 met the criteria to temporarily amend the Salmon FMP KRFC conservation objective to allow a limited fishery that would allow a projected natural escapement of 21,100 natural adult spawners. This increase in impacts to KRFC was determined to be acceptable in terms of maintaining the long-term productivity of the stock while minimizing to the extent practicable the economic impacts on the fishing community and states. NMFS concurred with the Council assessment and implemented emergency regulations effective May 1, 2006. Emergency action was taken to allow minimal impact on KRFC in directed ocean salmon fisheries between Cape Falcon, Oregon and Point Sur, California in 2006 (71 FR 26254, May 4, 2006).

The purpose of Amendment 15 is two-fold: (1) to give more flexibility to the management process when the escapement floor of 35,000 natural spawners for KRFC is projected not to be met; and (2) to provide for appropriate opportunities to access more robust Chinook salmon stocks that are typically available in the Council managed area. This amendment would, in appropriate circumstances, allow for the Council to develop and recommend fisheries, and NMFS to implement fisheries without the need for an emergency rule in years when the abundance of KRFC are low.

The Council identified a preferred alternative at the November 2006 Council meeting. Under the preferred alternative Amendment 15 would allow the Council to recommend and NMFS to implement in the case of Klamath River fall Chinook, to implement de minimis fisheries, which would: permit an ocean impact rate of no more than 10 percent on age–4 Klamath River fall Chinook, if the projected natural spawning escapement associated with a 10 percent age–4 ocean impact rate, including river recreational and tribal impacts, is between 22,000 and 35,000. If the projected natural escapement associated with a 10 percent age–4 ocean impact rate is less than 22,000, the allowable age–4 ocean impact rate shall be reduced to reflect the status of the stock. During the preseason planning process to set an allowable age–4 ocean impact rate the Council shall consider the following:

a. Critically low natural spawner abundance, including the risk of Klamath Basin substocks dropping below crucial genetic thresholds;

b. A series of low spawner abundance in recent years;

c. The status of co-mingled stocks;

d. El Nino or other adverse environmental conditions;

e. Endangered Species Act (ESA) considerations; and

f. Other considerations as appropriate.

When considering these items, the Council shall determine that the final ocean impact rate will not jeopardize the capacity of the fishery to produce the maximum sustainable yield on a continuing basis. Implementation of de minimis fisheries will depend on year specific estimates of ocean abundance and age composition, which will be determined by the STT prior to the March Council meeting. Ocean fishery impacts to the returning brood incurred during the previous fall/winter fisheries will be counted against the allowable age–4 ocean impact rate. Amendment 15 does not require that a de minimis fishery be implemented if the natural spawner floor is not met. The provisions of Amendment 15 allow the Council to consider implementing a de minimis fishery that would be limited to no more than 10 percent age–4 ocean impact rate based on the above described criteria.

Allowing limited opportunity for harvest when fisheries would otherwise be closed should lessen severe economic consequences to local communities and states. Historically, KRFC was a primary contributor to marine fisheries off the coasts of Oregon and California. While this amendment seeks to provide additional management flexibility in times of low KRFC abundance, the overriding purpose of the FMP remains to preserve the long-term productive capacity of the stock and thereby ensure it continues to contribute meaningfully to ocean and river fisheries in the future. This amendment does not change the 35,000 natural spawner conservation floor. Annual estimates of fishery catches, spawner escapements, spawner age composition and coded wire tag contributions are usually available by

early to mid-January each year for use by the Salmon Technical Team (STT) and the KRTAT in updating KRFC fishery resource estimates, models, and forecasts.

Amendment 15 Approval

Approval of this amendment by NMFS is conditioned upon its understanding of the particular meaning and intention of the amendment. In its March 22, 2007 letter to the PFMC, NMFS expressed the following understanding, which will be used by NMFS in applying Amendment 15:

As you know, the purpose of Amendment 15 is to provide limited opportunity for harvest when fisheries would otherwise be closed to mitigate, to the degree possible, severe economic consequences to local communities and states. Historically, Klamath River fall Chinook (KRFC) was a primary contributor to marine fisheries off the coasts of Oregon and California. While this amendment seeks to provide additional management flexibility in times of low KRFC abundance, the overriding purpose remains to preserve the long-term productive capacity of the stock and thereby ensure it continues to contribute meaningfully to ocean and river fisheries in the future.

The Council prepared Amendment 15 to the FMP under the provisions of the Magnuson-Stevens Act and submitted it for review by the Secretary on December 13, 2006. A notice of availability for Amendment 15 was published in the **Federal Register** on December 20, 2006 announcing a public comment period, this comment period closed on February 20, 2007. A proposed rule to implement Amendment 15 is currently under review, and we expect to have the final rule effective for the 2008 fishing season. Regulations implementing Amendment 15 will include an amended Federal regulation at 50 CFR 660.410.

It should be clearly understood that we do not interpret Amendment 15 to set a fixed schedule of allowable salmon harvest whenever the forecasted abundance of natural spawners falls within the range of 35,000 to 12,000. Rather, we understand Amendment 15 to allow the Council to entertain, without emergency rulemaking, the possibility of some de minimis harvest of KRFC in order to allow mixed stock ocean fisheries to occur when the preseason forecast of naturally-spawning KRFC falls below 35,000.

Nothing in this Amendment automatically predetermines that a particular level of harvest of Klamath fall Chinook will be acceptable or allowed. The extent of the harvest actually allowed in a particular year will be limited by the general requirements of the Magnuson-Stevens Act to maintain maximum sustainable fisheries on a continuing basis, by the specific factors listed in Amendment 15, and by the requirement to meet our trust responsibilities to affected Indian tribes.

The factors for consideration listed in the Amendment are important and need to be weighed based on the specific circumstances of each applicable future harvest season, and using the best available scientific information, which will continue to develop in the future. We anticipate that the maximum allowable 10 percent ocean impact rate will be implemented only when the anticipated escapement is near the 35,000 natural spawner floor. As escapement falls below approximately 30,000 the impact rate will need to decline substantially.

There may be some opportunity for harvest when projected escapements are in the range of 12,000 to 22,000, but the opportunity would be limited at best, and justified only to the degree that there are mitigating year specific circumstances. We acknowledge that, in 2006, Klamath fall Chinook harvests were approved down to a projected escapement of 22,000. However, this determination was based on the unique circumstances of that year and should not be understood as a precedent that harvest at that level will be regularly acceptable. In addition, although the Amendment allows for harvest if escapement is projected below 12,000, when we take into account the considerations stated in Amendment 15, we see little or no prospect for harvest when projected escapement is at that level.

We will continue to work with the Council to support the best possible fishery management decisions. While we hope that the Klamath runs will rebuild to the point that it will not be necessary to even consider harvest questions at the levels described in Amendment 15, should it become necessary to do so, we will work closely with you to develop an appropriate evaluation and sound decision based on what we know at that time.

Classification

NMFS has determined that this proposed rule is consistent with the FMP amendment and preliminarily determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws, details of each are as follows.

The Council prepared an environmental assessment for this FMP amendment that discusses the impact on the environment as a result of this rule. A copy of the environmental assessment is available from the Council (see **ADDRESSES**).

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows.

Commercial salmon harvesting vessels buyers/processors, and charter/party boats are expected to be the only type of small entities directly impacted by the proposed action. Section 603 (b)(1)-(5) of the RFA identifies the elements that should be included in the IRFA. These elements are bulleted below, followed by information that addresses each element.

• Description of the reasons why action by the agency is being considered:

This action is needed to prevent fishery restrictions that impose severe economic consequences to local communities and states. Historically, KRFC was a primary contributor to marine fisheries off the coasts of Oregon and California. While the FMP amendment seeks to provide management flexibility in times of scarcity, there is an overriding purpose to preserve the long-term productive capacity of the stock to ensure meaningful contributions to ocean and river fisheries in the future.

• Statement of the objectives of, and legal basis for, the proposed rule:

The Salmon FMP directs ocean salmon fishery management actions relative to the exclusive economic zone(EEZ) off the coasts of Washington, Oregon, and California. Under the existing Salmon FMP, a preseason projection that the conservation floor for KRFC will not be met triggers a Conservation Alert, which provides the Council and NMFS only one option: to close all salmon fisheries within its jurisdiction that impact the stock. These fisheries include ocean salmon fisheries between Cape Falcon, Oregon and Point Sur, California. Currently, any other option can only be addressed through the emergency regulation process as provided in the Magnuson-Steven Act and implemented by NMFS.

The purpose of Amendment 15 is two-fold: (1) to give more flexibility to the management process when the escapement floor of 35,000 natural spawners for KRFC is projected not to be met; and (2) to provide for appropriate opportunities to access more robust Chinook salmon stocks that are typically available in the Council managed area. This amendment would, in appropriate circumstances, allow for the Council to develop and recommend fisheries, and NMFS to implement fisheries without the need for an emergency rule in years when the abundance of KRFC are low.

• Description of and an estimate of the number of small entities to which the proposed rule would apply:

The small entities that would be affected by the proposed action are the vessels that compose the California and Oregon commercial salmon troll fleet and buyers/processors, the charter/party

boat fleet between Cape Falcon, Oregon, and Point Sur, California, and other fishery dependent businesses. In years with sufficient surplus, the Yurok and Hoopa Valley tribes sell salmon in excess of their subsistence needs. The generally acknowledged minimum tribal subsistence need is about 12,000 KRFC. In years that a Conservation Alert is triggered, it is unlikely the tribal share would exceed 12,000 KRFC; therefore there would be no difference in economic impact to tribal businesses between the Status Quo and Preferred alternative. Therefore, no analysis of the tribal fishery in included in the IRFA.

Salmon Troll Fleet

The financial impacts analysis focuses on the ex-vessel revenue effects of each alternative on salmon troll vessels. Financial impacts were evaluated based only on changes in salmon ex-vessel revenues relative to the Status Quo Alternative. Vessel counts are based on unique vessel identifiers. However, it is known that in many cases a single firm may own more than one vessel; therefore, the counts should be considered upper bound estimates. Additionally, businesses owning vessels may have revenue from fisheries in other geographic areas, such as Alaska, or from non-salmon fishing activities. Therefore, it is likely that when all operations of a firm are aggregated, some of the small entities identified here are actually larger than indicated. Approximately 2,718 vessels were permitted to operate in the commercial salmon troll fisheries in Oregon and/or California in 2005, although the active fleet was considerably smaller, with an average of approximately 1,068 vessels participating in 2003–2005. In addition, only about 13–19 percent of the active fleet landed 50 percent of the catch, and 52–55 percent of the fleet landed 90 percent of the catch in those years (STT 2006a). Of the 1,068 vessels, 40 percent participated only in salmon fisheries, while the other 60 percent participated in multiple fisheries. All of these vessels would be considered small businesses under the SBA standards. The active fleet participation is dynamic with respect to annual opportunity in the salmon fishery. In years with less opportunity, some salmon vessels choose not to participate, and either engage in other fisheries or sell out. In years with more opportunity, previously inactive vessels may choose to participate, or may be sold to more active fishermen. Under the Status Quo Alternative, there would be no participation in the commercial salmon fishery between Cape Falcon, Oregon and Point Sur, California during years that a Conservation Alert was triggered. Under the fixed cap alternatives, the active fleet was projected to be approximately 268 to 354. The 2003–2005 average salmon related revenue per troll vessel was estimated at $20,900. For salmon only troll vessels the average was $14,300 and for multiple species troll vessels the average was $25,200. Under the fixed cap alternatives, the average salmon-related revenue was projected at $1.6 million to 3.1 million in a Conservation Alert Year and applying a medium troller success rate scenario.

Processors/Buyers

A relatively small number of large processor/buyer firms handle most of the ocean salmon catch on the West Coast. There were 464 firms with state processor/buyer licenses that sold salmon in Oregon and California in 2004 (PFMC and NMFS 2006). These firms include both operators of processing plants and buyers that may do little more than hold the fish prior to their shipment to a processor or market. In some cases, the buyers may be owners of vessels who also own licenses allowing them to sell fish directly to the public or retail markets. Most larger salmon buying firms acquire fish from sites in more than one port. The largest salmon buyers tend to buy salmon from many vessels landing and buy fish in several ports. The top ocean caught salmon buying firms include some firms that are not among the top fish buyers when all species are counted. Larger processing firms are more likely to handle ocean caught salmon than smaller firms. However, there are many small buyers that specialize in salmon, only handle small amounts of product, and receive product from one or two vessels. It is likely that most of these buyers are vessels that also have licenses allowing them to sell directly to the public or other retail outlets(e.g., restaurants). A thorough analysis of the effects of the Preferred Alternative would include estimates of the numbers of vessels acting as buyers/processors, as well as other buyer/processor sectors, the recent history of revenue generated by the various classes of buyer/processors, and a projection of revenue generated under the Status Quo and Preferred alternatives in Conservation Alert years. However, because many of the small business buyer/processors include vessel ownership, and because most buyer/processors deal in multiple fisheries, it is likely the effects of the Preferred Alternative are proportional to those estimated and projected for the salmon troll fleet above.

Charter/Party Boats

Approximately 103 charter boats participated in California recreational ocean salmon fisheries in 2003–2005 (STT 2006a). In Oregon, there was an average of 211 licensed charter vessels during these same years. An estimated 6 percent of the Oregon charter effort occurred in the Astoria area during 2003–2005 (STT 2006a). In Oregon there was an average of 211 licensed charter vessels. There was no information available for port of operation for Oregon charter vessels, but an average of 18 percent of Oregon charter based salmon trips originated in the Astoria area. There was also no information available on fishery participation for Oregon vessels, and some may not have engaged in salmon fishing. Conversely, it is likely that most of the Charter fleet in both states participated in fisheries other than salmon, such as California halibut, Pacific Halibut, bottomfish, and albacore.

Separate economic impact estimates were not available for charter and private boat salmon fishing sectors; however during 2003–2005, Oregon and California recreational salmon fishing effort averaged 297,200 angler trips for both boat types, with charter boat fishing averaging 31 percent of the total during. Based on this assumption the projected state level income impact of the de minimis fishery alternatives under the fixed cap alternatives in a Conservation Alert Year ranged from $6.2 million to $6.8 million dollars. For the Status Quo Alternative the economic impact was about $322,000. Based on an assumed fleet of 314 vessels, the average economic impact per vessel was about $3,200 for the Status Quo Alternative and $19,700 to $21,700 annually for the fixed cap alternatives.

Other Small Businesses

In addition to commercial fishing vessels, other fishery-dependent businesses that may be affected include suppliers, buyers who act as intermediaries between vessels and consumers, processors who purchase raw materials from commercial vessels to produce seafood products, and charter or party vessels that provide recreational fishing experience for paying customers, among others. A thorough accounting of net benefits would include measurement of producer surpluses accruing to these business sectors as well as to fishing vessels.

• A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of

the classes of small entities that will be subject to the requirements of the report or record:

There were no new reporting or recordkeeping requirements that are proposed as part of this action.

• An identification, to the extent practicable, of all relevant Federal rules, which may duplicate, overlap, or conflict with the proposed rule:

No Federal rules have been identified that duplicate, overlap, or conflict with the alternatives. Public comment is hereby solicited, identifying such rules.

• A description of any significant alternatives to the proposed rule that accomplish the stated objectives that would minimize any significant economic impact of the proposed rule on small entities:

The decision to set the de minimis harvest rate cap at 10 percent was determined through the consideration of ecological, fishery, and economic effects of each alternative. It should be noted that modification of the current 35,000 naturally spawning adult floor to some other value would not address the issue of de minimis fishing opportunity in low abundance years, which is a primary reason for the current FMP amendment effort. The Council was presented with modeling results from the Salmon Amendment Committee (SAC) at its September meeting which examined each of the alternatives. These results showed little difference in long term effects on the stock size between each of the proposed alternatives. Differences among the de minimis alternatives (status quo, 5 percent, 10 percent, 13 percent) in terms of aggregate salmon troll revenues and associated income impacts indicated little difference among the alternatives in terms of long-term economic effects. The alternatives, however, indicated more substantial differences when the analysis focused on fishery outcomes in Conservation Alert years. The 13 percent alternative showed a higher probability of the age–4 ocean harvest rate going above 16 percent, which is the ESA Consultation Standard for threatened California Coastal Chinook. The 13 percent alternative also showed a higher probability of reducing the tributary spawning escapement below 720, which is considered to be a crucial genetic threshold. The 5 percent and the status quo alternatives were also examined and while they would both be a lower catch limit than the 10 percent and 13 percent alternatives they would provide little in the way of economic benefit to the fishery. The 10 percent alternative was chosen because it will not impact the long term productivity of the stock, especially when provisions are set to reduce the cap as needed and it provides some economic relief to the fishery. The model projections showed that the 10 percent alternative would allow for more fishing days, a higher catch of KRFC and a higher revenue than the 5 percent alternative.

This rule provides authority under certain circumstances for de minimis fisheries. The specific impacts of annual measures will be assessed annually during the development of annual measures. Additionally, the specific impacts of any de minimis fisheries pursuant to the authority of Amendment 15 will be assessed at that time.

Since 1989, NMFS has listed 27 ESUs of salmonids on the West Coast. As the listings have occurred, NMFS has conducted formal ESA section 7 consultations and issued biological opinions, and made determinations under section 4(d) of the ESA, that consider the impacts to listed salmonid species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures. Associated with the biological opinions are incidental take statements that specify the level of take that is expected. Some of the biological opinions have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed salmonid ESUs and provide incidental take statements. Other biological opinions have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration, and provided an incidental take statement for the reasonable and prudent alternative.

NMFS has determined that fishing activities conducted pursuant to this rule will affect endangered and threatened species and critical habitat under the ESA but will not jeopardize the continued existence of those species. NMFS will continue to assess the impact of the fishery each year during the development of annual measures. All alternatives would meet NMFS ESA consultation standards for listed salmon stocks.

The West Coast ocean salmon fisheries are considered a Category III fishery under the Marine Mammal Protection Act, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals, in the annual list of fisheries published in the **Federal Register**. Based on its Category III status, the incidental take of marine mammals in the West Coast salmon fisheries does not significantly impact marine mammal stocks.

Klamath River tribes with federally recognized fishing rights may be impacted by Council-area fisheries. Accordingly the FMP amendment was developed with consideration of tribal fishing rights. The Hoopa Valley Tribe and the Yurok Tribe were both represented on the Council's Ad Hoc Salmon Amendment Committee, which was responsible for development of this FMP amendment. In accordance with the Magnuson-Stevens Act there is a tribal representative on the Council. A copy of the Environmental Assessment is available from the Council.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 9, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reason set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority for part 660 continues to read as follows:

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

2.In § 660.410 revise paragraph (b)(1) to read as follows:

§ 660.410 Conservation objectives.

* * * * *

(b) * * *

(1) A comprehensive technical review of the best scientific information available provides conclusive evidence that, in the view of the Council, the Scientific and Statistical Committee, and the Salmon Technical Team, justifies modification of a conservation objective: except that the 35,000 natural spawner floor and the de minimis fishing provisions for Klamath River fall Chinook may be changed only by amendment.

* * * * *

[FR Doc. E7–9329 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 93
Tuesday, May 15, 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

Office of the Secretary

Forestry Research Advisory Council

AGENCY: Office of the Secretary, USDA.

ACTION: Notice; solicitation for membership to the Forestry Research Advisory Council.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. app., the United States Department of Agriculture (USDA) announces solicitation for nominations to fill eleven vacancies on the Forestry Research Advisory Council.

DATES: Nominations must be received on or before July 16, 2007. Send completed nomination packages to Daina Dravnieks Apple, Designated Federal Officer, U.S. Forest Service; Research and Development, Forestry Research Advisory Council; U. S. Department of Agriculture; Mail Stop 1120; 1400 Independence Avenue, SW., Washington, DC 20250–1120, if sending by U.S Postal Service. For Express mail use 201 14th St. SW., Mail Stop 1120; Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Daina Dravnieks Apple, Designated Federal Officer, U.S. Forest Service; Research and Development, Forestry Research Advisory Council; 202–205–1665; facsimile 202–205–1530, or contact Catalino Blanche, Program Leader, Natural Resources and Environment, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture; 202–401–4190; facsimile 202–401–1706.

SUPPLEMENTARY INFORMATION: Section 1441(c) of the Agriculture and Food Act of 1981 requires the establishment of the Forestry Research Advisory Council to provide advice to the Secretary of Agriculture on accomplishing efficiently the purposes of the Act of October 10, 1962 (16 U.S.C. 582a, *et seq.*), known as the McIntire-Stennis Act of 1962. The Council also provides advice related to the Forest Service research program, authorized by the Forest and Rangeland Resources Research Act of 1978 (Pub. L. 95–307, 92 Stat. 353, as amended; 16 U.S.C. 1600 (note)). The Council is composed of 20 voting members from the following membership categories:

(1) Federal and State agencies concerned with developing and utilizing the Nation's forest resources, in particular committee membership, will include representation from the National Forest System and Forest and Range Experiment Station leaders, Forest Service;

(2) The forest industries. These are organizations involved in the management of forest lands for which timber production is a component;

(3) The forestry schools of the State certified eligible institutions, and State agricultural experiment stations; and

(4) Volunteer public groups concerned with forests and related natural resources.

The initial Council membership was appointed with staggered terms of 1, 2, and 3 years. As a result of the staggered appointments, the terms of 11 members will expire during November 2007. Nominations for a 3-year appointment for all of the 11 vacant positions are sought. Nominees will be carefully reviewed for their broad expertise, leadership and relevancy to a membership category. Geographic balance and a balanced distribution among the categories are also important. Vacancies are as follows: Federal and State—3; Industry—1; Academic—3; and Voluntary organizations—4. Nominations for one individual who fits several of the categories or for more than one person who fits one category will be accepted. Please indicate the specific membership category for each nominee. Nominations are open to all individuals without regard for race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. Nominations are being solicited from universities, organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of forestry research interests throughout the country. Appointments will be made by the Secretary of Agriculture.

Each nominee must complete Form AD–755, Advisory Committee Membership Background Information (which can be obtained electronically from the USDA Chief Information Office at *http://www.ocio.usda.gov/forms/ocio_forms.html*, or from the contact persons listed in the Further Information Contact section of this notice) and will be vetted before selection. Send nominee's name, resume, and the completed Form AD–755 by mail to: Forest Service Research and Development, Forestry Research Advisory Council; Mail Stop 1120; 1400 Independence Avenue, SW., Washington, DC 20250–1120. Nominations delivered by express mail or overnight courier service should be sent to: USDA Forest Service; Research and Development, Forestry Research Advisory Council; 201 14th St. SW., Washington, DC 20024.

Dated: May 8, 2007.

Boyd K. Rutherford,

Assistant Secretary for Administration.

[FR Doc. E7–9232 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Publication Comment Cards

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection, Request for Comments; Publication Comment Cards (0596–0163).

DATES: Comments must be received in writing on or before July 16, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Science Delivery Group, Southern Research Station, Forest Service, USDA, 200 W.T. Weaver Boulevard, Asheville, NC 28804–3454.

Comments also may be submitted via facsimile to 828–257–4313 or by e-mail to: *carolwhitlock@fs.fed.us.*

The public may inspect comments received at 200 W.T. Weaver Boulevard,

Asheville, NC 28804–3454, Room 243 during normal business hours. Visitors are encouraged to call ahead to 828–257–4389 to facilitate entry to the building. Additionally the public may inspect comments received on the World Wide Web, *www.srs.fs.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Whitlock, Science Delivery Group, 828–257–4389. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Publication Comment Card.

OMB Number: 0596–0163.

Expiration Date of Approval: November 30, 2007.

Type of Request: Extension of a currently approved collection.

Abstract: Executive Order 12862, issued September 11, 1993, directed Federal agencies to change the way they do business, to reform their management practices, and to provide service to the public that matches or exceeds the best service available in the private sector. In response to this Executive Order, the Forest Service, Southern Research Station, developed a Publication Comment Card for inclusion when distributing scientific research publications.

Since the early 1920s, the Forest Service scientists have published the results of their studies about national forests and forest resources and products, in addition to their conclusions about the dynamics of natural timber stands and plantations, watershed and wildlife management, and recreational activities. These studies have provided long-term data that have become increasingly valuable to landowners and others involved in natural resource and land management. Data from the Publication Comment Card help Forest Service research stations determine if publications meet customers' expectations and address customers' needs. The collected information also helps scientists and authors provide relevant information on effective, efficient, responsible land management. The Government Printing Office binds the cards into all general technical reports, research papers, research notes, resource bulletins, and other technical publications printed for the Forest Service.

Respondents complete comment cards and return them to the Forest Service in person, via surface mail, or using the Internet. Data gathered in this information collection are not available from other sources. The Forest Service's Science Delivery Group collects and analyzes the data, providing feedback to individual scientists and authors with the purpose of improving future products. Curtailing this information collection would deprive customers of a convenient mechanism for providing detailed and constructive criticism of research publications.

Estimate of Annual Burden: 5 minutes.

Type of Respondents: Individuals; businesses; landowners; non-profit organizations; local, state, and foreign governments.

Estimated Annual Number of Respondents: 22,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,833.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: May 8, 2007.

Ann Bartuska,

Deputy Chief.

[FR Doc. E7–9233 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwestern Region, Arizona, New Mexico, West Texas and Oklahoma: Proposed Surface Management of Natural Gas Resource Development on Jicarilla Ranger District, Carson National Forest, Rio Arriba County, NM; Additional Filings

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The USDA Forest Service published a Notice of Intent (69 FR 59881–59883, October 6, 2004) to prepare an environmental impact statement for a proposed forest plan amendment for surface management of gas leasing and development on the Jicarilla Ranger District, Carson National Forest. In addition, the proposal includes a leasing analysis for approximately 3,800 unleased acres on the Jicarilla Ranger District.

A draft environmental impact statement has been completed and the Environmental Protection Agency (EPA) published a Notice of Availability (NOA) in the **Federal Register** on February 16, 2007 (72 FR 54900). The end of the comment period presented in the NOA was incorrect and subsequently rectified in an amended notice (72 FR 9521, March 2, 2007).

CORRECTED DATES: The Notice of Intent (NOI) stated the final environmental impact statement (FEIS) was scheduled for completion in early summer of 2005. This Notice corrects the estimated filing date of the FEIS from early summer 2005, to the fall 2007. When completed, EPA will publish a NOA of the FEIS in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Audrey Kuykendall, Forest Environmental Coordinator, Carson National Forest, at (505) 758–6212.

Dated: May 15, 2007.

Martin D. Chavez, Jr.,

Forest Supervisor, Carson National Forest.

[FR Doc. E7–9271 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwestern Region, Arizona, New Mexico, West Texas and Oklahoma: Proposed Land and Resource Management Plan Amendment for the Valle Vidal, Carson National Forest, Taos and Colfax Counties, NM; Additional Filings

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The USDA Forest Service published a Notice of Intent (70 FR 34441–34442, June 14, 2005) to prepare an environmental impact statement for a proposed forest plan amendment to incorporate standards and guidelines for the management of the Valle Vidal Unit of the Questa Ranger District, Carson National Forest.

CORRECTED DATES: The Notice of Intent (NOI) states the draft environmental

impact statement (DEIS) is expected to be available for public review sometime in February or March 2006. This Notice corrects the estimated filing date of the DEIS from spring 2006 to summer 2007. At that time, the Environmental Protection Agency (EPA) will publish a Notice of Availability (NOA) of the DEIS in the **Federal Register**.

Additionally, the 2005 NOI states the comment period would be for 90 days. This Notice changes the length of the comment period to 60 days from the date the NOA is published in the **Federal Register**.

Completion date for the final environmental impact statement (FEIS) is subsequently corrected to reflect these changes. The NOI states the FEIS would be completed in September 2006. This Notice corrects the estimated completion date of the FEIS from September 2006 to winter 2007. When completed, EPA will publish a NOA of the FEIS in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Audrey Kuykendall, Forest Environmental Coordinator, Carson National Forest, at (505) 758–6212.

Dated: May 8, 2007.

Martin D. Chavez, Jr.,

Forest Supervisor, Carson National Forest.

[FR Doc. E7–9283 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Surveys Program. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by July 16, 2007 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0213, by any of the following methods:

- *E-mail: gmcbride@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Fax:* (202) 720–6396.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Surveys Program.

OMB Control Number: 0535–0213.

Expiration Date of Approval: September 30, 2007.

Type of Request: To revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, farm numbers, land values, on-farm pesticide usage, and pest crop management practices. The Agricultural Surveys Program contains a series of surveys that obtains basic agricultural data from farmers and ranchers throughout the Nation for preparing agricultural estimates and forecasts of crop acreage, yield, and production; stocks of grains and soybeans; hog and pig numbers; sheep inventory and lamb crop; cattle inventory; and cattle on feed.

Grazing fees, land values, pesticide usage, and pest management practices data are also collected.

Uses of the statistical information are extensive and varied. Producers, farm organizations, agribusinesses, State and national farm policy makers, and government agencies are important users of these statistics. Agricultural statistics are used to plan and administer other related Federal and State programs in such areas as consumer protection, conservation, foreign trade, education, and recreation.

The Agricultural Surveys Program had approval from OMB for a 3-year period. NASS intends to request that the program be approved for another 3 years.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farms and Ranches.

Estimated Number of Respondents: 650,000.

Estimated Total Annual Burden on Respondents: 162,500 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

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 the 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.

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

Signed at Washington, DC, April 24, 2007.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. E7–9237 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Cotton Ginnings Survey. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by July 16, 2007 to be considered.

ADDRESSES: You may submit comments, identified by docket number 0535–0220, by any of the following methods:

- *E-mail: gmcbride@nass.usda.gov*. Include docket number above in the subject line of the message.
- *Fax:* (202) 720–6396.
- *Mail or Hand Delivery:* Mail or deliver any paper, disk, or CD-ROM submissions to: Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Cotton Ginning Survey.

OMB Control Number: 0535–0220.

Expiration Date of Approval: September 30, 2007.

Type of Request: To revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. NASS's Cotton Ginnings survey reports provide cotton ginnings statistics from August through February by State to aid in forecasting cotton production. Data collected consists of bales of cotton ginned to date, cotton to be ginned, lint cotton produced, cottonseed produced, cottonseed sold to oil mills, cottonseed used for other uses, number of gins by type, bales produced by county of origin, and cottonseed prices received by producers. The forecasting procedure involves calculating a weighted percent ginned to date as well as an allowance for cross-state movement and bale weight adjustments. Production by State allows adjustments for year-end State and county estimates. Total pounds of lint cotton produced is used to derive an actual bale weight which increases the precision of production estimates.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 minutes per response.

Respondents: Cotton Ginners.

Estimated Number of Respondents: 10,000.

Estimated Total Annual Burden on Respondents: 1,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

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 the 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.

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

Signed at Washington, DC, April 20, 2007.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. E7–9238 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection comprising the Nursery and Christmas Tree Production Survey and the Nursery and Floriculture Chemical Use Survey. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by July 16, 2007 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0244, by any of the following methods:

- E-mail: *gmcbride@nass.usda.gov*. Include docket number above in the subject line of the message.
- Fax: (202) 720–6396.
- Mail: Mail any paper, disk, or CD–ROM submissions to: Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.
- Hand Delivery/Courier: Hand deliver to: Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Nursery and Christmas Tree Production Survey and Nursery and Floriculture Chemical Use Survey.

OMB Control Number: 0535–0244.

Expiration Date of Approval: September 30, 2007.

Type of Request: To revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock

production, prices, and disposition, as well as environmental statistics. This includes estimates of production and value of key nursery products and chemical use by nursery and floriculture production operations.

• As nursery production continues to be one of the fastest growing segments of American agriculture, the Nursery Production and Christmas Tree Survey will update the production and economic contribution of the nursery industry to U.S. agriculture every 3 years by conducting a census of nursery and greenhouse operations with sales over $10,000 in the 17 major producing States. These operations will receive the production questionnaire by mail with telephone and personal interview follow-up for non-response.

• The Nursery and Floriculture Chemical Use Survey, also conducted every 3 years, measures chemical use related to the production of nursery and floriculture crops in six major producing States. The resulting publication, part of the NASS series on Agricultural Chemical Usage, summarizes rates of application, total amount of active ingredients applied, and use of pest management practices. NASS collects on-farm chemical use data to enhance the quality of information used in the evaluation of issues related to agricultural chemicals, including pesticide registrations. Pest management data are used to measure integrated pest management adoption levels and evaluate the impact of alternative pesticide regulations, policies, and practices. A sample of nursery and floriculture operations with sales over $10,000 in the major States will be personally interviewed, since chemical use data are not accurately collected by telephone or mail.

• A separate nursery production survey is conducted every year only in Oregon.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

Estimate of Burden: Based on previous data collected, the Nursery and Christmas Tree Production Survey questionnaire is expected to average 35 minutes per respondent. Based on previous data, the Nursery and Floriculture Chemical Use Survey questionnaire is estimated questionnaire average 45 minutes per respondent.

Respondents: Producers of nursery, greenhouse, and floriculture products.

Estimated Annual Number of Respondents: (Nursery Production Survey at 13,000 respondents × annual frequency of 1/3) + (Chemical Use Survey at 4,200 × frequency of 1/3) + (Oregon Production Survey at 700 × frequency of 1.0) = approximately 6,500.

Estimated Total Annual Burden on Respondents: 4,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

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 the 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.

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

Signed at Washington, DC, April 20, 2007.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. E7–9240 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Aquaculture Surveys. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by July 16, 2007 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0150, by any of the following methods:

• E-mail: *gmcbride@nass.usda.gov*. Include docket number above in the subject line of the message.

• Fax: (202) 720–6396.

• Mail or Hand Deliver: Mail deliver any paper, disk, or CD–ROM submissions to: Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Aquaculture Surveys.

OMB Control Number: 0535–0150.

Expiration Date of Approval: September 30, 2007.

Type of Request: To revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Aquaculture Surveys collect information on trout and catfish; trout surveys include water surface acreage and sales, and catfish surveys include inventory, water surface acreage, sales, catfish processed, and catfish feed. Survey results are used by government agencies in planning farm programs.

• Twenty States are in the trout growers survey. In January, previous year trout sales data are collected from farmers, and distributed fish data are collected from State and federal hatcheries.

• Eleven States are in the catfish growers survey. Data are collected from farmers in January for January inventory, water surface acreage, and previous year sales. In addition, farmers in the four major catfish producing States are surveyed in July for mid-year inventory and water surface acreage.

• All twenty catfish processing plants across the nation are in the catfish processing survey. Plants are surveyed monthly for amount purchased, prices paid, amount sold, prices received, and end-of-month inventories.

• Fourteen catfish millers are surveyed monthly for the amount of feed delivered for food-size fish and fingerlings and broodfish.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response with 1.5 responses per respondent.

Respondents: Farms, feed mills and processors.

Estimated Number of Respondents: 2,200.

Estimated Total Annual Burden on Respondents: 825 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

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 the 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.

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

Signed at Washington, DC, April 20, 2007.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. E7–9241 Filed 5–14–07; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[T–1–2007]

Foreign–Trade Zone 38 – Spartanburg County, SC, Application for Temporary/Interim Manufacturing Authority, Kittel Supplier USA, Inc. (Automotive Door Trim Components), Notice of Approval

On March 12, 2007, an application was filed by the Executive Secretary of the Foreign–Trade Zones (FTZ) Board submitted by the South Carolina State Ports Authority, grantee of FTZ 38, requesting temporary/interim manufacturing (T/IM) authority on behalf of Kittel Supplier USA, Inc., to assemble automotive door trim components under FTZ procedures within FTZ 38–Site 3, Duncan, South Carolina.

The application has been processed in accordance with T/IM procedures, as authorized by FTZ Board Orders 1347 (69 FR 52857, 8–30–2004) and 1480 (71 FR 55422, 9–22–2006), including notice in the **Federal Register** inviting public comment (72 FR 13081, 3–20–2007). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. The foreign–origin components approved for this activity are: window frames (HTSUS 8708.29); B, C and D–pillar trim (8708.29); division bars (8708.29); metal clips (8302.30); and, rubber seals (4016.93). Pursuant to the authority delegated to the FTZ Board Executive Secretary in the above–referenced Board Orders, the application is approved, effective this date, until May 4, 2009, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: May 4, 2007.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–9326 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–838, A–331–802, A–533–840, A–570–893, A–552–802, A–549–822]

Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, the People's Republic of China, the Socialist Republic of Vietnam, and Thailand; Notice of Extension of Time Limit for Final Results of Administrative and New Shipper Reviews

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

EFFECTIVE DATE: May 15, 2007.

FOR FURTHER INFORMATION CONTACT: Kate Johnson at (202) 482–4929 (Brazil), David Goldberger at (202) 482–4136 (Ecuador), Elizabeth Eastwood at (202) 482–3874 (India), Christopher Riker at (202) 482–3441 (People's Republic of China), Alex Villanueva at (202) 482–3208 (Socialist Republic of Vietnam) and Irina Itkin at (202) 482–0656 (Thailand), AD/CVD Operations, Offices 2 and 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2007, the Department of Commerce (''Department'') published in the **Federal Register** the preliminary results of the first antidumping duty administrative reviews of certain frozen warmwater shrimp from Brazil, Ecuador, India, the People's Republic of China, the Socialist Republic of Vietnam, and Thailand, covering the period August 4, 2004, through January 31, 2006.[1] *See Certain Frozen Warmwater Shrimp from Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10680 (March 9, 2007); *Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10698 (March 9, 2007); *Certain Frozen Warmwater Shrimp from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10658

[1] Aligned with the above-referenced administrative reviews are the new shipper reviews of Hai Li Aquatic Co., Ltd. Zhao An, Fujian (People's Republic of China) and Grobest & I-Mei Industrial (Vietnam) Co., Ltd. (Socialist Republic of Vietnam).

(March 9, 2007); *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2006 Administrative Review and Preliminary Intent to Rescind 2004/2006 New Shipper Review*, 72 FR 10645 (March 9, 2007); *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review*, 72 FR 10689 (March 9, 2007); and *Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10669 (March 9, 2007). The final results for these administrative and aligned new shipper reviews are currently due no later than July 9, 2007, the next business day after 120 days from the date of publication of the preliminary results of review.

Extension of Time Limit for the Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days.

The Department requires additional time to complete these reviews in order to properly consider the numerous and complex issues raised by interested parties in their case briefs. Thus, it is not practicable to complete these reviews within the original time limit. Therefore, the Department is extending the time limit for completion of the final results of these reviews by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later than September 5, 2007.

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

Dated: May 9, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–9328 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review

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

EFFECTIVE DATE: May 15, 2007.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Mark Manning; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, DC 20230; telephone: (202) 482–5831 or (202) 482–5253, respectively.

SUMMARY: The Department of Commerce (''Department'') published its preliminary results of the administrative review and new shipper review of the antidumping duty order on hand trucks and certain parts thereof (''hand trucks'') from the People's Republic of China (''PRC'') on January 9, 2007. *See Hand Trucks and Certain Parts Thereof From the People's Republic of China; Preliminary Results and Partial Rescission of Administrative Review and Preliminary Results of New Shipper Review*, 72 FR 937 (January 9, 2007) (''*Preliminary Results*''). The period of review (''POR'') is December 1, 2004, through November 30, 2005. We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we have made changes to our calculations. The final dumping margins for this review are listed in the ''Final Results of Review'' section below.

SUPPLEMENTARY INFORMATION: On February 1, 2006, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of hand trucks from the PRC for the period May 24, 2004, through November 30, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 5241 (February 1, 2006). On February 3, 2006, the Department also published in the **Federal Register** a notice of the initiation of the new shipper review of Since Hardware (Guangzhou) Co., Ltd. (''Since Hardware''). *See Hand Trucks and Certain Parts Thereof From the People's Republic of China; Initiation of New Shipper Review*, 71 FR 5810 (February 3, 2006).

The Department published the preliminary results of these reviews on January 9, 2007. *See Preliminary Results*. We invited parties to comment on our preliminary results of review. *See Preliminary Results*, 72 FR at 946–947. Forecarry Corporation and Formost Plastics & Metalworks (Jiaxing) Co., Ltd. (''Forecarry and Formost'') submitted their response to the Department's December 19, 2006, supplemental section D questionnaire on January 18, 2007. Forecarry and Formost submitted a case brief on February 14, 2007; Since Hardware submitted a case brief on February 15, 2007; and on February 16, 2007, Gleason Industrial Products, Inc., and Precision Products, Inc. (collectively, ''the petitioner'') submitted a case brief. On February 20, 2007, the petitioner filed allegations that the case briefs submitted by Forecarry and Formost, and Since Hardware contained new information. Forecarry and Formost, and True Potential Co., Ltd. (''True Potential'') submitted rebuttal briefs on February 20, 2007, Since Hardware submitted a rebuttal brief on February 21, 2007, and the petitioner submitted a rebuttal brief on February 22, 2007. On March 7, 2007, the Department notified Forecarry and Formost that their case brief contained new information and requested that Forecarry and Formost resubmit their case brief, redacting factual information submitted after the deadline for new factual information, and not solicited by the Department, pursuant to 19 CFR 351.301(b)(2). Regarding the allegation of new information in Since Hardware's case brief, the Department has reviewed this allegation and examined the information contained in Since Hardware's prior submission. Based upon our analysis, the Department disagrees with the petitioner that Since Hardware's case brief contained new information. *See* Comment 18 of the Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Issues and Decisions for the Final Results of Administrative and New Shipper Reviews,'' dated May 9, 2007 (''Decision Memorandum''), for a complete discussion of this issue. On March 16, 2007, Forecarry and Formost resubmitted their case brief. On March 28, 2007, the Department held a public hearing concerning this issues raised by the parties in these reviews.

Scope of Antidumping Duty Order[1]

The product covered by this order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand–propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States (''HTSUS''), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two–wheel or four–wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Separate Rates

Forecarry and Formost, Since Hardware, and True Potential requested separate, company–specific antidumping duty rates. In the *Preliminary Results*, we found that Forecarry and Formost, and Since Hardware are owned wholly by entities located in market–economy countries. Thus, the Department preliminarily granted a separate rate to these two exporters. *See Preliminary Results*, 72 FR at 943–944. For the final results, the Department continues to grant Forecarry and Formost, and Since Hardware, separate rates for this review period because no party submitted comments on this issue, and no evidence was placed on the record that questions the appropriateness of this determination. Regarding True Potential, which is a privately owned company in the PRC, the Department conducted a separate rate analysis in the *Preliminary Results*. Based upon our analysis, we preliminarily granted True Potential a separate rate. *See Preliminary Results*, 72 FR at 944. For the final results, the Department did not receive any comments on True Potential's separate rate, and no evidence was placed on the record that would warrant reconsideration of our separate rate analysis for True Potential. Therefore, the Department continues to find that True Potential has met the criteria for the application of a separate antidumping duty rate for this review period.

Analysis of Comments Received

All issues raised in the briefs and rebuttal briefs submitted by the parties in these reviews are addressed in the Decision Memorandum, which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Decision Memorandum is attached to this notice as an appendix. The Decision Memorandum is a public document which is on file in the Central Records Unit in room B–099 in the main Department building, and is accessible on the Web at http://www.ia.ita.doc.gov/frn. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for Since Hardware and True Potential. For a list of these changes, *see* Decision Memorandum, at the section titled ''Changes Since the Preliminary Results.''

Adverse Facts Available

1. Forecarry and Formost

Sections 776(a)(1) and (2) of the Tariff Act of 1930, as amended (''Act''), provide that the Department shall apply ''facts otherwise available'' if necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

[1] *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China*, 69 FR 70122 (December 2, 2004).

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (''AFA'') information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

In the *Preliminary Results*, the Department found that Forecarry and Formost failed to provide usable factors of production (''FOPs''). Further, the Department found that Forecarry and Formost (A) withheld information regarding Formost's FOPs that had been requested, (B) failed to provide the FOP information in the form and manner requested by the Department, and (C) due to the absence of this information, Forecarry and Formost significantly impeded the proceeding because the Department could not tie the reported FOP database to appropriate source documentation. *See Preliminary Results*, 72 FR at 940–941. Thus, in the absence of a usable FOP database, the Department applied total facts available, according to sections 776(a)(2)(A), (B), and (C) of the Act. *Id.* at 941. Nonetheless, the Department provided Forecarry and Formost with a final opportunity to substantiate their reported FOPs by: (1) reconciling the reported FOPs to Formost's normal books and records; and (2) demonstrating how the reported FOPs were calculated. *See* Supplemental Section D questionnaire, dated December 19, 2006.

The Department has reviewed Forecarry and Formost's response to the December 19, 2006, supplemental questionnaire, and the comments submitted by the parties regarding this issue. Based upon our analysis, for the final results, the Department finds that the information necessary to calculate an accurate and otherwise reliable margin is not available on the record with respect to Forecarry and Formost. Specifically, in its January 18, 2007, response to the Department's December 19, 2006, supplemental questionnaire, Forecarry and Formost failed to (1) reconcile the reported FOPs to Formost's normal books and records, and (2) demonstrate how the reported FOPs were calculated. *See* Comment 26 of the Decision Memorandum for a complete discussion of this issue. The Department continues to find that Forecarry and Formost withheld information, failed to provide information requested by the Department in the form and manner required, and significantly impeded the Department's ability to calculate an accurate margin. Therefore, pursuant to sections 776(a)(2)(A),(B) and (C) of the Act, the Department is resorting to facts otherwise available.

In the *Preliminary Results*, the Department found that it is reasonable to assume that Forecarry and Formost possessed the records necessary for this administrative review and that, by not supplying the information the Department requested, Forecarry and Formost failed to cooperate to the best of their ability. *See Preliminary Results*, 72 FR at 944. Therefore, the Department preliminarily applied an adverse inference. *Id.* For the final results, the Department continues to find that, in accordance with section 776(b) of the Act, it is appropriate to apply an adverse inference in selecting the facts available rate as it has determined that Forecarry and Formost did not act to the best of their ability to cooperate with the Department in this administrative review, because information placed on the record by Forecarry and Formost indicates that Forecarry and Formost reasonably could have responded to the Department's requests for information. As a result, we are continuing to apply the highest rate from the history of this proceeding, 383.60 percent, the PRC–wide rate from the less–than-fair–value (''LTFV'') amended final determination. *See Amended Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof From the People's Republic of China*, 69 FR 65410, 65411 (November 12, 2004) (''*Final Amended Determination*'').

2. Future Tool and Shandong Machinery

In the *Preliminary Results*, the Department determined that it was not appropriate to grant Qingdao Future Tool, Inc. (''Future Tool''), and Shandong Machinery Import & Export Group Corporation (''Shandong Machinery''), a separate rate because both of these companies failed to respond to the Department's requests for information. *See* 72 FR at 942. For this reason, we considered Future Tool and Shandong Machinery as part of the PRC–wide entity. Moreover, since the PRC–wide entity did not respond to our requests for information, we applied total facts available to the PRC–wide entity pursuant to sections 776(a)(2)(A) and (C) of the Act. *Id.* For the final results, since no new information has been placed on the record regarding Future Tool, Shandong Machinery, or the PRC–wide entity, we continue to apply total facts available.

As we stated in the *Preliminary Results*, it is reasonable to assume that the PRC–wide entity (including Shandong Machinery and Future Tool) possessed the records necessary for this administrative review and that, by not supplying the information the Department requested, these companies failed to cooperate to the best of their ability. *See Preliminary Results*, 72 FR at 944. Accordingly, because the PRC–wide entity (including Future Tool and Shandong Machinery) failed to respond to the Department's requests for information, we continue to find that these companies have not acted to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act. Therefore, an adverse inference is warranted in selecting from the facts otherwise available. As a result, we are continuing to apply the highest rate from the history of this proceeding, 383.60 percent, the PRC–wide rate from the LTFV final determination, to the PRC–wide entity (including Future Tool and Shandong Machinery). *See Final Amended Determination*.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Sess. Vol. 1 at 870 (1994). The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The Department, however, need not prove that the selected facts available are the best alternative information. *See* SAA at 869; *see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of*

Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) (unchanged in the final results). Independent sources used to corroborate such evidence may include, for example, ''published price lists, official import statistics and customs data, and information obtained from interested parties during the instant investigation or review.'' *See* 19 CFR 351.308(d) and SAA at 870; *see also Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra–High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627, 35629 (June 16, 2003) (where the Department reviewed the adequacy and accuracy of the information in the petition) (unchanged in final determination); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005) (where the Department compared the normal values and U.S. prices submitted by the petitioners to data submitted by the respondents for whom the Department calculated a margin).

The reliability of the AFA rate was determined in the final determination of the investigation when the Department compared the U.S. prices from the price quotations in the petition to prices of comparable products sold by a mandatory respondent in the LTFV investigation, and found them to be comparable. *See Final Amended Determination*. The Department applied this rate as AFA to Qingdao Xinghua Group Co., Ltd. (''Xinghua'') in the *Final Amended Determination*.[2] The Department also compared the surrogate values used in the petition to the surrogate values selected for the final determination, and then adjusted and replaced certain values to make them more accurate. Finally, the Department replaced the surrogate value ratios in the petition with those used in the final investigation. Therefore, in the investigation, the Department found this margin to be reliable. *Id*. Further, the application of this rate was subject to comment from interested parties in the instant proceeding. The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. *See, e.g., Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304, 41307–41308 (July 11, 2003). Since no information has been presented in the current review that calls into question the reliability of this information, the Department finds the selected rate reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available), because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) where the Court ruled that the Department will not use a margin that has been judicially invalidated. Nothing on the record of this review calls into question the relevance of the margin selected as AFA. Further, the selected margin is currently the PRC–wide rate. Moreover, this rate has not been invalidated judicially. Thus, it is appropriate to use the selected rate as AFA in the instant review. Therefore, we determine that the rate from the *Final Amended Determination* continues to be relevant for use in this administrative review.

As the recalculated *Final Amended Determination* rate is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the *Final Amended Determination* rate is corroborated for the purposes of this administrative review and may reasonably be applied to Forecarry and Formost, and the PRC–wide entity, as AFA. Accordingly, we determine that the *Final Amended Determination* rate of 383.60 percent, which is the highest rate from any segment of this administrative proceeding, meets the corroboration criteria established in section 776(c) of the Act that secondary information have probative value.

Final Results of Review

We determine that the following percentage margins exist for the period December 1, 2004, through November 30, 2005:

Exporter/manufacturer	Weighted–average margin percentage
Forecarry Corp. and Formost Plastics & Metalworks (Jianxing) Co., Ltd.	383.6
Since Hardware (Guangzhou) Co., Ltd	0
True Potential Co., Ltd.	17.59
PRC–wide Rate	383.6

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP within 15 days after the date of publication of these final results of review. For assessment purposes, where possible, we calculated importer–specific assessment rates for hand trucks from the PRC via *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. However, as noted in the *Preliminary Results*, we calculated importer–specific per–unit assessment instructions because True Potential was unable to provide the entered value of its reported sales. *See Preliminary Results* at 72 FR at 947. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of hand trucks from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) for Forecarry and Formost, Since Hardware, and True Potential, which each have separate rates, the cash deposit rate will be the company–specific rate shown above; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 383.60 percent, the current PRC–wide rate; and

[2] In the final determination, the Department applied total AFA to Xinghua, and assigned Xinghua the PRC-wide rate of 386.75 percent. *See Notice of Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 69 FR 60980, 60984 (October 14, 2004). The Department revised the PRC-wide rate in the amended final determination from 386.75 percent to 383.60 percent. *See Final Amended Determination*, 69 FR at 65411.

(4) the cash deposit rate for all non–PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These cash deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

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

Dated: May 9, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

I. General Issues

Comment 1: Whether the Department Should Use an Electricity–Specific Inflation Index to Adjust the Electricity Surrogate Value.
Comment 2: Whether the Department Should Include Packing Materials and Packing Labor in the Application Bases for Surrogate Financial Ratios.
Comment 3: Whether the Department Should Correct Clerical Errors in the Application of the Surrogate Values for Inland Freight Expenses.
Comment 4: Whether the Department Should Correct Clerical Errors in the Application of the Surrogate Values for Domestic Brokerage and Handling Expenses.
Comment 5: Whether the Department Should Select Different Financial Statements to Value Factory Overhead, Selling, General & Administrative Expenses, and Profit.
Comment 6: Whether the Department Should Use the 2004–2005 or the 2005–2006 Financial Statements of Jay Equipment to Calculate Overhead, Selling, General & Administrative Expenses and Profit.
Comment 7: Whether the Department Should Correct Its Calculation of the Surrogate Financial Ratios for Rexello Castors Private Ltd.
*Comment 8:*Whether the Department Should Correct Its Application of the Surrogate Value for Hydrochloric Acid.
Comment 9: Whether the Department Should Apply an Updated Surrogate Value for Brokerage and Handling Expenses.
Comment 10: Whether the Department Should Apply the Most Recently Calculated Non–Market Economy Wage Rate for the PRC.

II. Company–Specific Issues

A. Since Hardware Issues

Comment 11: Whether the Department Should Accept Since Hardware's Reported Factors of Production Methodology.
Comment 12: Whether the Department Should Reject Since Hardware's Market Economy Purchases of Steel Inputs.
Comment 13: Whether the Department Should Assign a Surrogate Value to Plastic Bags.
Comment 14: Whether the Department Should Assign Bungee Cable a Different HTS Classification.
Comment 15: Whether the Department Should Assign a Surrogate Value to the Input for Petrolatum.
Comment 16: Whether the Inclusion of South Korea in the Calculation of the Surrogate Value for Muriate of Potash is Warranted.
*Comment 17:*Whether the Calculation of the Surrogate Value for Welding Rod is Correct.
Comment 18: Whether the Department Should Assign Bearings a Different HTS Classification.
Comment 19: Whether the Inclusion of Packing–Related Inputs in Cost of Manufacturing is Valid.

B. True Potential Issues

Comment 20: Whether the Department Should Add Trading Company Factors for Selling, General and Administrative Expenses and Profit to its Calculation of True Potential's Normal Value.
Comment 21: Whether the Department Should Correct its Application of a Surrogate Value for Certain Ball Bearings.
Comment 22: Whether the Department Should Correct Its Surrogate Value Calculation for Carbon Dioxide to Include Imports from Hong Kong.
Comment 23: Whether the Department Should Correct its Surrogate Value Calculation for Welding Solder to Include Imports from Austria and the Netherlands.

C. Future Tool's Issue

Comment 24: Whether the Department Should Continue to Apply Adverse Facts Available to Future Tool.

D. Shangdong Machinery's Issue

Comment 25: Whether the Department Should Continue to Apply Adverse Facts Available to Shandong Machinery.

E. Forecarry and Formost's Issues

Comment 26: Whether to Apply Facts Available to Forecarry and Formost.
Comment 27: Whether to Apply Adverse Facts Available to Forecarry and Formost.

[FR Doc. E7–9324 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042707A]

Marine Mammals; File No. 486–1919

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Brent Stewart, Ph.D, J.D, Hubbs-SeaWorld Research Institute, 2595 Ingraham Street, San Diego, CA, 92109, has applied for a permit to conduct reseach on crabeater (*Lobodon carcinophaga*), Ross (*Ommatophoca rossii*), leopard (*Hydruga leptonyx*), and Weddell (*Leptonychotes weddellii*) seals in Antarctica.

DATES: Written, telefaxed, or e-mail comments must be received on or before June 14, 2007.

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.

Written comments or requests for a public hearing on this application

should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 486–1919.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The purpose of the proposed research is to collect basic information on the breeding behavior, health and diseases, foraging ecology, migratory patterns, and population genetics of ice-associated Antarctic pinnipeds. Up to 50 seals of each of the four species would be captured, weighed, measured, biologically sampled (skin, blubber, blood, fecal), flipper tagged, satellite tagged, microbiological swabbed, and released. Up to 100 seals of each of the four species would be incidentally disturbed as a result of observational studies, scat collection, and capture and sampling activities. No mortality is requested and the permit would be issued for one year.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 10, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–9325 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 0648–XA31]

Marine Mammals; File No. 1032–1917

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Robert A. Garrott, Ecology Department, Montana State University, 310 Lewis Hall, Bozeman, MT 59717, has applied in due form for a permit to conduct research on Weddell seals (*Leptonychotes weddellii*).

DATES: Written, telefaxed, or e-mail comments must be received on or before June 14, 2007.

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.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1032–1917.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The purpose of the research would be to evaluate how temporal variation in the marine environment affects a long-lived mammal's population dynamics. The applicant proposes to continue long-term studies of the Weddell seal population in the Erebus Bay, McMurdo Sound, Ross Sea and White Island areas of Antarctica. Up to 325 adults and 800 pups would be captured annually. Animals would be weighed, tissued sampled, flipper tagged, and released. Annually up to 2000 Weddell, 50 crabeater (*Lobodon carcinophagus*), and 50 leopard (*Hydrurga leptonyx*) seals may be incidentally disturbed as a result of the research activities. The applicant requests authorization for up to 4 (2 adults and 2 pups) Weddell seal research-related mortalities annually. The permit would be valid for five years from the date of issuance.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 10, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–9341 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA27]

Gulf of Mexico Fishery Management Council (Council); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held June 4 - 7, 2007.

ADDRESSES: The meetings will be held at the W New Orleans, 333 Poydras St., New Orleans, LA 70130; telephone: (504) 525–9444.

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

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Council

Wednesday, June 6, 2007

11 a.m. - The Council meeting will begin with a review the agenda and minutes. Public testimony on exempted fishing permits (EFPs), if any, Final Reef Fish Amendment 27/Shrimp 14, and Final Vermilion Snapper Regulatory Amendment 14 and Open Public Comment Period regarding any fishery issue or concern will be from *11:15 a.m. - 12 p.m.* and *1:30 - 5:30 p.m.* People wishing to speak before the Council should complete a public comment card prior to the comment period.

Thursday, June 7, 2007

The Council will review and discuss reports from the previous two days' committee meetings as follows:

8:30 a.m. - 8:45 a.m. - Joint Reef Fish/Mackerel/Red Drum;

8:45 a.m. - 9:15 a.m. - Administrative Policy;

9:15 a.m. - 9:45 a.m. - Mackerel Management;

9:45 a.m. - 10:15 a.m. - Data Collection;

10:15 a.m. - 10:30 a.m. - Budget/Personnel;

10:30 a.m. - 12:30 p.m. - Joint Reef Fish/Shrimp Management;

2 p.m. - 3:30 p.m. - Reef Fish Management;

3:30 p.m. - 3:45 p.m. - Report of the Closed Council Meeting Conference Call;

3:45 p.m. - 4:15 p.m. - The Council will conclude its meeting by discussing Other Business items.

Committees

Monday, June 4, 2007

1 p.m. - 3 p.m. - The Joint Reef Fish/Mackerel/Red Drum Management Committee will meet to approve a public hearing draft of the Generic Offshore Aquaculture Amendment.

3 p.m. - 5 p.m. - The Administrative Policy Committee will meet to consider NMFS recommendations for Annual Catch Limits (ACL), Accountability Measures (AM), and the Scientific and Statistical Commitee (SSC) charges in Magnuson-Stevens Reauthorization Act (MSRA).

Tuesday June 5, 2007

8:30 a.m. - 9:30 a.m. - The Mackerel Management Committee will meet to consider actions recommended by the Joint Special Mackerel Group.

9:30 a.m. - 11 a.m. - The Data Collection Committee will meet to hear a report on the progress of the National Committee on Recreational Data Surveys.

11 a.m. - 11:30 a.m. - The Budget/Personnel Committee will meet to consider the issue of increasing the liaison grant to the states.

1 p.m. - 4:30 p.m. - The Joint Reef Fish/Shrimp Management Committee will meet to hear summaries of public hearings and reports of SSC and Advisory Panels (APs) on draft Reef Fish 27/Shrimp 14 Amendment and to develop their recommendations to the Council.

4:30 p.m. - 5:30 p.m. - The Reef Fish Management Committee will meet to recommend actions on Reef Fish Amendment 30, Part A and B, addressing overfishing of Reef Fish stocks and the Regulatory Amendment for Vermilion Snapper.

6 p.m. - 8 p.m. - NOAA Fisheries Service and Gulf Council staff will hold an open public forum/question and answer session on Gulf Reef Fish. This forum, while not a public hearing, will provide the public an opportunity to ask questions and discuss Gulf Reef Fish science and management issues in a less formal setting intended to increase dialogue between constituents and fishery managers.

Wednesday, June 6, 2007

8:30 a.m. - 11 a.m. - The Reef Fish Management Committee continues to meet.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

Special Accommodations

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

Dated: May 10, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–9254 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA26]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee (Committee) in March, 2007 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Thursday, May 30, 2007, at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 256–2550.

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

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

SUPPLEMENTARY INFORMATION: The Committee will: review several final cooperative research project reports and develop management advice for use by the Council; address the Northeast Fisheries Science Center's report on the impacts of fishing on groundfish spawning activities and related follow-up activities concerning the Northeast Region's Experimental Fishing Permit Program; develop recommendations concerning the peer review of the recently concluded study fleet pilot

project; discuss data archiving and data access for cooperative research project results; and other outstanding business related to cooperative research.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 10, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–9252 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA28]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/Marine Protected Area (MPA)/ Ecosystem Advisory Panel and its Habitat/MPA/Ecosystem Committee, in June, 2007, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: These meetings will be held on Tuesday, June 5, 2007, at 9 a.m. and 1 p.m. respectively.

ADDRESSES: These meetings will be held at the Hilton Mystic Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone: (860) 572–0731; fax: (860) 572–0328.

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

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

SUPPLEMENTARY INFORMATION: The panel's schedule and agenda for the following meeting is as follows:

1. *Tuesday, June 5, 2007, from 9 a.m. - 12 p.m.*; The Advisory Panel will meet to review the formal public comments received on Phase 1 of the Essential Fish Habitat (EFH) Omnibus Amendment and consider making recommendations to the Habitat/MPA/Ecosystem Oversight Committee on the alternatives contained therein.

2. *Tuesday, June 5, 2007 at 1 p.m.*; As directed by the Council and with the assistance of the Northeast Fisheries Science Center (NEFSC), the Committee will begin discussions on the delineation of sub-ecoregions for use in ecosystem approaches to fisheries management. The committee will also review the formal public comments received on Phase 1 of the EFH Omnibus Amendment and the alternatives contained therein and will make recommendations to the Council on Phase 1 final actions for consideration at the June 19–21, 2007 Council meeting in Portland, ME.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 10, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–9253 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC).

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a public meeting of the Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary for Communications and Information on spectrum management matters.

DATES: The meeting will be held on May 30, 2007, from 2:00 p.m. to 4:30 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4830, 1401 Constitution Ave. N.W., Washington, D.C. Public comments may be mailed to Spectrum Management Advisory Committee, 1401 Constitution Ave. N.W., Room 4725, Washington, D.C. 20230 or emailed to spectrumadvisory@ntia.doc.gov.

FOR FURTHER INFORMATION CONTACT: Meredith Baker, Designated Federal Official, at (202) 482–1830 or mbaker@ntia.doc.gov; Joe Gattuso at (202) 482–0977 or jgattuso@ntia.doc.gov; and/or visit NTIA's web site at www.ntia.doc.gov.

SUPPLEMENTARY INFORMATION: *Background*: The Secretary of Commerce established the Spectrum Management Advisory Committee (Committee) to implement a recommendation of the President's Initiative on Spectrum Management pursuant to the President's November 29, 2004 Memorandum for the Heads of Executive Departments and Agencies on the subject of ''Spectrum Management for the 21st Century.'' [1] This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. § 904(b). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on needed reforms to domestic spectrum policies and management to enable the introduction of new spectrum-dependent technologies and services,

[1] *President's Memorandum on Improving Spectrum Management for the 21st Century,* 49 Weekly Comp. Pres. Doc. 2875 (Nov. 29, 2004) (Executive Memorandum).

including policy reforms for expediting the American public's access to broadband services, public safety, digital television, and long-range spectrum planning. The Committee functions solely as an advisory body in compliance with the FACA.

Matters to Be Considered: The Committee will receive recommendations from its Subcommittee on Technical Sharing Efficiencies and provide advice to NTIA on its Spectrum Sharing Test-Bed Proposal; will receive a status report from its Subcommittee on Operational Sharing Efficiencies, and will hear public comment.

Time and Date: The meeting will be held on May 30, 2007, from 2:00 p.m. to 4:30 p.m. Eastern Daylight Time. These times and the agenda topics are subject to change. Please refer to NTIA's web site, http://www.ntia.doc.gov, for the most up-to-date meeting agenda.

Place: U.S. Department of Commerce, Herbert C. Hoover Building, Room 4830, 1401 Constitution Ave. N.W., Washington, D.C. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. When arriving for the meeting, attendees must present photo or passport identification or a U.S. Government building pass, if applicable, and should arrive at least one-half hour prior to the start time of the meeting. The meeting will be physically accessible to people with disabilities. Individuals requiring special services, such as sign language interpretation or other ancillary aids are asked to contact Joe Gattuso at (202) 482–0977 or jgattuso@ntia.doc.gov at least two (2) business days prior to the meeting.

Status: Interested parties are invited to attend and to submit written comments. Written comments should be sent to the above listed address and received by close of business on May 24, 2007 to provide sufficient time for review. Comments received after May 24, 2007, will be distributed to the Committee, but may not be reviewed prior to the meeting. It would be helpful if paper submissions also include a three and one-half inch computer diskette in HTML, ASCII, Word or WordPerfect format (please specify version). Diskettes should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. Alternatively, comments may be submitted electronically to spectrumadvisory@ntia.doc.gov. Comments provided via electronic mail may also be submitted in one or more of the formats specified above.

Records: NTIA is keeping records of all Committee proceedings, which will be available for public inspection at NTIA's office at the address above. Documents including the Committee's charter, membership, agendas, minutes, and any reports are or will be available on NTIA's web site.

Dated: May 9, 2007

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. E7–9239 Filed 5–14–07; 8:45 am]

BILLING CODE 3510–60–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS), The purpose of the Committee meeting is to begin work on the 2007 report topics to include military women's health care in the theater of operations and spouses employment opportunities. The meeting is open to the public, subject to the availability of space.

Interested person may submit a written statement for consideration by the Defense Department Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the Point of Contact listed below at the address detailed below, NLT 5 p.m. May 24, 2007. If a written statement is not received by May 24, 2007 prior to the meeting, which is the subject of this notice, then it may not be provide to or considered by the Defense Department Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Department Advisory Committee on Women in the Services Chairperson and ensure they are provided to the members of the Defense Department Advisory Committee on Women in the Services, If members of the public are interested in making an oral statement, a written statement must be submitted as above, After reviewing the written comments, the Chairperson and the Designated Federal Officer will allow the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting permitting time allows and the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Wednesday, 30 May from 4:30 p.m. to 5p.m. before the full Committee. Number of oral presentations to be made will depend on the number of requests received from members of the public.

DATES: 30 May 2007 8:30 a.m.–5 p.m.; 31 May 2007, 8:30 a.m.–12 p.m.

Location: Double Tree Hotel Crystal City National Airport, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: CPT Arnalda Magloire, USA, DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. *arnalda.magloire@osd.mil* Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION: Meeting agenda.

Wednesday 30 May 2007 8:30 a.m.–5 p.m.

Welcome and Administrative Remarks

2007 Report briefings on military women's health care in the theater of operations and Service members' spouses' employment opportunities.

Public Forum

Thursday 31 May 2007 8:30 a.m.–12 p.m.

Welcome and Administrative Remarks

2007 Report briefings on military women's health care in the theater of operations and Service members' spouses' employment opportunites.

Note: Exact order may vary.

Dated: May 9, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–2382 Filed 5–14–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before June 14, 2007.

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

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

Dated: May 9, 2007.

Angela C. Arrington,

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

Office of Postsecondary Education

Type of Review: New Collection.

Title: Application for Fulbright-Hays Group Projects Abroad Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 10,000.

Abstract: The Fulbright-Hays Group Projects Abroad program provides grants for overseas projects in training, research and curriculum development in modern foreign languages and area studies for groups of teachers, students and faculty.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3333. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

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

[FR Doc. E7–9299 Filed 5–14–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before June 14, 2007.

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

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

Dated: May 9, 2007.

Angela C. Arrington,

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

Office of Postsecondary Education

Type of Review: Revision of a currently approved collection.

Title: Fulbright-Hays Training Grants: Faculty Research Abroad Program CFDA 84.019A and Doctoral Dissertation Research Abroad Program CFDA 84.022A.

Frequency: Annually.

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

Reporting and Recordkeeping Hour Burden:

Responses: 780.

Burden Hours: 27,240.

Abstract: This application allows individual graduate students and faculty members to compete for Fulbright-Hays fellowships and enables the Department

of Education to make awards to U.S. institutions of higher education to develop and improve modern foreign language and area studies training programs.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3296. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

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

[FR Doc. E7–9302 Filed 5–14–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education (OVAE); Overview Information; Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.245.

DATES: *Applications Available:* May 15, 2007.

Deadline for Transmittal of Applications: June 14, 2007.

Eligible Applicants: A tribally controlled postsecondary career and technical institution that does not receive Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*), or the Navajo Community College Act (25 U.S.C. 640a *et seq.*).

Estimated Available Funds: $7,366,000 for the first 12 months of this project period. Funding for years two through five is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: $3,000,000 to $4,000,000 for the first 12 months.

Estimated Average Size of Awards: $3,683,000 for a single budget period of 12 months.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Section 117 of the Carl D. Perkins Career and Technical Education Act of 2006 (Act or Perkins IV), authorizes the Secretary to make grants to tribally controlled postsecondary career and technical institutions that do not receive Federal support under the Tribally Controlled College or University Assistance Act of 1978 or the Navajo Community College Act to provide basic support for the education and training of Indian students in career and technical education programs.

Statutory Changes Affecting TCPCTIP: For the convenience of applicants, we describe in this section the major statutory changes made to the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), which was amended by the Act, that affect TCPCTIP.

(a) *Purpose.* In the Act, Congress has expanded and added elements to the law's statement of purpose, most significantly by stating that, among other statutory purposes, programs supported under the Act should build on the efforts of States and localities to develop challenging academic and technical standards and should assist students in meeting such standards, including student academic achievement standards, especially in preparation for high-skill, high-wage, or high-demand occupations in emerging or established professions. (20 U.S.C. 2301(1)) Congress also added to the statement of purpose a requirement that programs provide technical assistance that promotes leadership, initial preparation, and professional development at the State and local levels, and improves the quality of career and technical education teachers, faculty, administrators, and counselors. (20 U.S.C. 2301(5)) Additionally, the Act's statement of purpose was amended to support partnerships among secondary schools, postsecondary institutions, baccalaureate degree-granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries, and to provide career and technical education students with opportunities throughout their lifetimes to develop, in conjunction with other education and training programs, the knowledge and skills needed to keep the United States competitive. (20 U.S.C. 2301(6) and (7))

(b) *Definitions.* Congress replaced the term ''vocational and technical education'' with the term ''career and technical education'' throughout the Act. The term career and technical education is defined in section 3(5) of the Act and, for the convenience of potential applicants, is reiterated in the *Definitions* section of this notice. (20 U.S.C. 2302(5)(A))

(c) *Annual needs estimates, facilities reports, and long-term facilities study.* Congress eliminated the requirements that the Department prepare annual institutional needs estimates, facilities reports, and long-term facilities studies.

(d) *Indian student count.* As described in detail elsewhere in this notice, the Act made changes to the statutory definition of the term ''Indian student count.'' These changes mean that the Department will require somewhat different certified data from grantees for grant calculations in years when the amounts appropriated for TCPCTIP are insufficient to pay the total allowable costs proposed by grantees.

(e) *Requirement for Complaint Resolution Procedure.* The Act requires the Department to establish, after consultation with tribally controlled postsecondary career and technical institutions, a complaint resolution procedure for grant determinations and calculations. The Department developed what it believes is a fair, effective, and efficient complaint resolution procedure that will provide program grantees with a process for resolving complaints regarding grant determinations and grant amount calculations without resulting in inordinate delays in the grant award process. To effectuate the consultation process, the Department requested input from the two current TCPCTIP grantees on the procedure, placed the Department's proposed procedure on the Department's Web site, and made it available to the American Indian Higher Education Consortium (AIHEC). The Department appreciated the input it received during the consultation process and carefully considered the suggestions provided in finalizing its complaint resolution procedure.

(f) *Complaint Resolution Procedure.* (1) Under the complaint resolution procedure established by the Department pursuant to section 117(g) of the Act, a tribally controlled postsecondary career and technical institution may file a complaint with the Assistant Secretary for Vocational and Adult Education (Assistant Secretary) seeking an administrative review of a grant determination or calculation made under section 117 of the Act regarding any prospective grant award to that institution, including for:

(i) A determination regarding the institution's eligibility to apply for a grant under section 117 of the Act.

(ii) A determination arising from the Indian student count information and data that the institution has provided to OVAE.

(iii) A determination of the allowability of proposed project spending that the institution has identified in its application, including its proposed budget.

(iv) The calculation of the institution's grant amount.

(2) A section 117(g) complaint requesting administrative review must—

(i) Be submitted in writing and mailed to the Assistant Secretary for Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., room PCP–11138, Potomac Center Plaza, Washington, DC 20202–7241, within ten days of the applicant being notified by OVAE of the decision in question;

(ii) Include a clear and concise statement of the factual and legal basis upon which the complaint is based as well as any calculations supporting the complaint, any supporting documentation or evidence, and a statement of the relief sought, arising from the complaint; and

(iii) Be signed by the tribally controlled postsecondary career and technical institution's authorized official.

(3) During the administrative review of any section 117(g) complaint, OVAE may request additional information from the institution that has submitted the complaint or conduct other proceedings, as appropriate, for a fair and complete review of the complaint.

(4) The Assistant Secretary will send the complainant a letter of final determination that will include the legal and factual grounds for the Assistant Secretary's determination.

Program Requirements, Application Requirements, Evaluation Requirements, and Definitions

Program Requirements:

(a) *Program Expenditures.* TCPCTIP grants fund programs for Indian students and the institutional support costs of the TCPCTIP grant, including the specific types of costs described in section 117(e) of the Act, which include—

(1) The maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(2) Capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

(3) Costs associated with repair, upkeep, replacement, and upgrading of instructional equipment; and

(4) Institutional support of career and technical education.

(b) *Allowable Expenses.*

(1) Under TCPCTIP, allowable costs include costs for basic support of a grantee's career and technical education programs. Costs that are not specifically authorized by section 117 of the Act or clearly associated with career and technical education programs for Indian students, such as an institution's general administrative costs, will not be considered allowable direct costs under this program.

(2) TCPCTIP funds may be used for capital expenditures, including operations and maintenance, minor improvements and repair, and physical plant maintenance costs, only when incurred for the conduct of programs funded under section 117 of the Act.

(3) Stipends may be paid to enable students to participate in a TCPCTIP career and technical education program.

(i) To be eligible for a stipend, a student must—

(A) Be enrolled in a career and technical education project funded under this program;

(B) Be in regular attendance in a TCPCTIP project and meet the training institution's attendance requirement;

(C) Maintain satisfactory progress in his or her program of study according to the training institution's published standards for satisfactory progress; and

(D) Have an acute economic need that prevents participation in a project funded under this program without a stipend and that cannot be met through a work-study program.

(ii) The amount of a stipend is the greater of either the minimum hourly wage prescribed by State or local law or the minimum hourly wage established under the Fair Labor Standards Act.

(iii) A grantee may only award a stipend if the stipend combined with other resources the student receives does not exceed the student's financial need. A student's financial need is the difference between the student's cost of attendance and the financial aid or other resources available to defray the student's cost of participating in a TCPCTIP project.

(iv) To calculate the amount of a student stipend, a grantee would multiply the number of hours a student actually attends career and technical education instruction by the amount of the minimum hourly wage that is prescribed by State or local law or by the minimum hourly wage that is established under the Fair Labor Standards Act.

Example: If a grantee uses the Fair Labor Standards Act minimum hourly wage of $5.15 and a student attends classes for 20 hours a week, the student's stipend would be $103 for the week during which the student attends classes ($5.15 × 20 = $103).

Note: Grantees must maintain records that fully support their decisions to award stipends and the amounts that are paid, such as proof of a student's enrollment in a TCPCTIP, stipend applications, timesheets showing the number of attendance hours confirmed in writing by an instructor, student financial status information, and evidence that a student would not be able to participate in the TCPCTIP project without a stipend. (20 U.S.C. 1232f; 34 CFR 75.700–75.702; 75.730; and 75.731)

(v) An eligible student may receive a stipend when taking a course for the first time. However, a stipend may not be provided to a student who has already taken, completed, and had the opportunity to benefit from a course and is merely repeating the course.

(vi) An applicant must include in its application the procedure it intends to use to determine student eligibility for stipends and stipend amounts, and its oversight procedures for the awarding and payment of stipends.

(c) *Annual and Final Progress Reports.* In addition to the reports required under the Reporting section of this notice, grantees must provide the Department with annual and final progress reports showing the findings of an independent evaluator's review of their CTE programs' effectiveness.

(d) *Attendance Costs Are Not Income.* (1) Under TCPCTIP, the portion of any student financial assistance received under the Act that is made available for attendance costs described in paragraph (2) of this section may not be considered as income or resources in determining

eligibility for assistance under any other program funded in whole or in part with Federal funds.

(2) For purposes of this section, attendance costs are—

(i) Tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rentals or purchases of any equipment, materials, or supplies required of all students in the same course of study; and

(ii) An allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending an institution on at least a half-time basis, as determined by the institution. (20 U.S.C. 2415)

(e) *Eligibility for Assistance under TCPCTIP May Not Preclude Assistance under Other Programs.* Except as specifically provided in the Act, eligibility for assistance under this program does not preclude any tribally controlled postsecondary career and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or under any other applicable program for the benefit of institutions of higher education or career and technical education. (20 U.S.C. 2327(f)(1))

Application Requirements:

To receive a TCPCTIP grant, an applicant must include in its application:

(a) Documentation showing that the applicant is eligible according to each of the requirements in the *Eligible Applicants* section of this notice, including meeting the definition of the terms ''tribally controlled postsecondary career and technical institution'' and ''institution of higher education'' (*e.g.*, proof of the institution's accreditation status) and certification that the institution does not receive Federal support under the Tribally Controlled College or University Assistance Act of the 1978 (25 U.S.C. 1801 *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a *et seq.*).

(b) Descriptions of the programs of study, including academic courses, to be supported under the proposed TCPCTIP project. Projects funded under this competition must propose organized educational activities that meet the definition of career and technical education, as that term is defined in section 3(5) of the Act (and as reiterated in the *Definitions* section of this notice).

(c) The estimated number of students to be served by the proposed five-year project in each course of study.

(d) Goals and objectives for the proposed project, including how the attainment of the goals and objectives would further any tribal economic development plans.

(e) Long-range and short-range needs to be addressed by the project, including the institution's plans for the placement of students (*e.g.*, placement into additional training or education, military service, or employment).

(f) A detailed budget identifying the costs to be paid with funds under this program for the first year of the five-year project period, and resources available from other Federal, State, and local sources, including any student financial aid that will be used to achieve the goals and objectives of the proposed project.

Evaluation Requirements:

To ensure the high quality of TCPCTIP projects and the achievement of the goals and purposes of section 117 of the Act, each grantee must budget for and conduct an ongoing evaluation of its TCPCTIP project's effectiveness. An independent evaluator must conduct the evaluation. The evaluation must—

(a) Be appropriate for the project and be both formative and summative in nature;

(b) Include—

(1) The performance measures for TCPCTIP that are identified in the *Performance Measures* section of this notice;

(2) Qualitative and quantitative data with respect to—

(i) Academic, and career and technical, competencies demonstrated by the participants and the number and kinds of academic and work credentials acquired by individuals, including participation in programs providing skill proficiency assessments, industry certifications, or training at the associate degree level that is articulated with an advanced degree option;

(ii) Student progress in achieving technical skill proficiencies necessary to obtain employment in the field for which the student has been prepared;

(iii) Activities during the formative stages of the project, to help guide and improve the project, as well as a summative evaluation that includes recommendations for improving programs of study and disseminating information about high-quality programs of study;

(iv) The number and percentage of students who obtained industry-recognized credentials, certificates, or degrees; and

(v) The outcomes of students' technical assessments, by type and scores.

(c) Measure the effectiveness of the project, through a comparison between the intended and observed results, and a demonstration of a clear link between the observed results and the specific treatment given to project participants;

(d) Measure the extent to which information about or resulting from the project was disseminated at other sites, such as through the grantee's development and use of guides or manuals that provide step-by-step directions for practitioners to follow when initiating similar career and technical education efforts; and

(e) Measure the long-term impact of the project by, for example, examining follow-up data on students' employment, sustained employment, promotions, further higher education or training, or the impact the project had on tribal economic development or career and technical education activities.

Definitions:

Career and technical education means organized educational activities that—

(a) Offer a sequence of courses that—

(1) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(2) Provides technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(3) May include prerequisite courses (other than remedial courses) that meet the requirements of this definition; and

(b) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of the individual. (20 U.S.C. 2302(5))

Indian means a person who is a member of an Indian tribe, as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

Indian student count means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary career and technical institution, as determined in accordance with the following:

(a) *Enrollment.* For each academic year, the Indian student count must be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

(1) In the case of the fall term, the third week of the fall term; and

(2) In the case of the spring term, the third week of the spring term.

(b) *Calculation.* For each academic year, the Indian student count for a tribally controlled postsecondary career and technical institution must be the quotient obtained by dividing the sum of the credit hours of all Indian students enrolled in the tribally controlled postsecondary career and technical institution by 12.

(c) *Summer Term.* Any credit earned in a class offered during a summer term must be counted in the determination of the Indian student count for the succeeding fall term.

(d) *Students Without Secondary School Degrees.*

(1) A credit earned at a tribally controlled postsecondary career and technical institution by any Indian student who has not obtained a secondary school degree (or the recognized equivalent of such a degree) must be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

(2) The institution must be presumed to have established the criteria described in paragraph (d)(1) of this definition if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to complete successfully a course in which the student is enrolled.

(3) No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) may be counted toward the determination of the Indian student count.

(4) Any credit earned by an Indian student in a continuing education program of a tribally controlled postsecondary career and technical institution must be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit-hour basis in accordance with the system of the institution for providing credit for participation in the program. (20 U.S.C. 2327(h)(2))

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (20 U.S.C. 2327(h)(1); 25 U.S.C. 1801(a)(2))

Institution of higher education, as defined in section 3(18) of the Act and in section 101 of the Higher Education Act of 1965, means—

(a) An educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary of Education for the granting of pre-accreditation status, and the Secretary of Education has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes—

(1) Any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (a)(1), (2), (4) and (5) of this definition.

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in paragraph (a)(1) of this definition, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located. (20 U.S.C. 1001 and 2302(18))

Non-traditional fields means occupations or fields of work, including careers in computer science, technology, and other current and emerging high-skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work. (20 U.S.C. 2302(20))

Stipend means a subsistence allowance for a student that is necessary for the student to participate in a project funded under this program.

Tribally Controlled Postsecondary Career and Technical Institution means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965, except that subsection (a)(2) of such section shall not be applicable and the reference to Secretary in subsection (a)(5) of such section shall be deemed to refer to the Secretary of the Interior) that—

(a) Is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes;

(b) Offers a technical degree or certificate granting program;

(c) Is governed by a board of directors or trustees, a majority of whom are Indians;

(d) Demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(e) Has been in operation for at least three years;

(f) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary career and technical education; and

(g) Enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians. (20 U.S.C. 2302(34))

Waiver of Proposed Rulemaking: Under the Administrative Procedures Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed non-statutory requirements, definitions, and selection criteria. Section 437(d)(1) of the General Education Provisions Act (20 U.S.C. 1232(d)(1)), however, allows the Secretary to exempt from rulemaking requirements non-statutory requirements, definitions, and selection criteria governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under the Act and, therefore, qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on certain non-statutory requirements, definitions, and selection criteria in this notice. These requirements and selection criteria will apply to the FY 2007 grant competition only.

Program Authority: The Carl D. Perkins Career and Technical Education Act of 2006 (Pub. L. 109–270, 20 U.S.C. 2301 *et seq.*), in particular, section 117 (20 U.S.C. 2327).

Applicable Regulations: The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $7,366,000 for the first 12 months of this project period. Funding for years two through five is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: $3,000,000 to $4,000,000 for the first 12 months.

Estimated Average Size of Awards: $3,683,000 for a single budget period of 12 months.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Any tribally controlled postsecondary career and technical institution that meets the definition in section 3(34) of the Act is eligible to apply for a grant under this program if it is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*), or the Navajo Community College Act (25 U.S.C. 640a *et seq.*).

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. (20 U.S.C. 2391(a))

3. *Other—Indirect Costs:* Institutions receiving grants under this program will not be required to use a restricted indirect cost rate. (20 U.S.C. 2327(c)(3))

IV. Application and Submission Information

1. *Address to Request Application Package:* Lois Davis, U.S. Department of Education, 400 Maryland Avenue, SW., room 11063, Potomac Center Plaza, Washington, DC 20202–7241. Telephone: (202) 245–7784. FAX: (202 245–7170) or e-mail: *Lois.Davis@ed.gov* You also may obtain an application package via the Internet from the following address: *http://www.ed.gov/GrantApps/.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

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 program.

3. *Submission Dates and Times:*

Applications Available: May 15, 2007.

Deadline for Transmittal of Applications: June 14, 2007.

Applications for grants under this 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**.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

6. *Other Submission Requirements:*

Applications for grants under this program may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the Governmentwide Grants.gov Apply site. TCPCTIP, CFDA Number 84.245, 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 TCPCTIP at *http://www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.245, not 84.245A).

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 program 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 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 84.245A), 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 84.245A), 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 84.245A), 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

(1) *Selection Criteria:* The selection criteria for this program are as follows.

The maximum score for each criterion and for each factor is indicated in parentheses. The total maximum score for these selection criteria is 105 points.

(a) *Quality of the project design.* (30 points) In determining the quality of the design of the proposed project, we consider the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (for example, we look for clear descriptions of proposed student career and technical education activities; recruitment and retention strategies; expected enrollments, completions, and student placements in jobs, military specialties, and continuing education/training opportunities; the number of project staff to be trained; and identification of requirements for each program of study to be provided under the project, including related training areas and a description of performance outcomes). (5 points)

(ii) The extent to which the proposed project will establish linkages with other appropriate agencies (*e.g.*, Indian Health Services, Tribal Planning Offices, the Department of Interior's Bureau of Indian Affairs and Office of Indian Education, the Department of Labor) and organizations providing services to the target population. (5 points)

(iii) The extent to which the proposed project will strengthen the rigor of the institution's career and technical education programs of study by offering programs with challenging academic content and technical skill proficiency, including by administering technical assessments that are aligned with industry-recognized standards, and awarding industry-recognized credentials, certificates, or degrees. (5 points)

(iv) The extent to which the services to be provided by the proposed project will prepare students to gain employment in high-skill, high-wage, and high-demand occupations or in non-traditional fields. (5 points)

(v) The extent to which the services to be provided will improve student achievement, as measured against rigorous academic and career and technical standards, and will promote student retention in the grantee institution or transfer to a baccalaureate degree program. (5 points)

(vi) The extent to which the proposed project will provide opportunities for high-quality professional development that—

(A) Will improve instructional personnel's knowledge and skills so that they can help students attain challenging and rigorous academic content and career and technical skill proficiencies;

(B) Will advance instructional personnel's understanding of effective instructional strategies that are supported by scientifically-based research; and

(C) Are sustained, intensive, and classroom-focused. (5 points)

(b) *Quality of the management plan.* (15 points) In determining the quality of the management plan for the proposed project, we consider the following factors:

(i) The adequacy of the management plan to achieve the goals and objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and the milestones and performance standards for accomplishing project tasks. (5 points)

(ii) The extent to which the time commitments of the project director and other key project personnel, including instructional staff, are appropriate and adequate to meet the objectives of the proposed project. (5 points)

(iii) The adequacy of procedures for student recruitment and retention. (5 points)

(c) *Quality of project personnel.* (15 points) In determining the quality of project personnel, we consider the following factors:

(i) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (5 points)

(ii) The qualifications, including relevant training, expertise, and experience, of the project director, other key personnel, and project consultants. (5 points)

(iii) The extent to which the project will use instructors who are certified to teach in the field in which they will provide instruction. (5 points)

(d) *Adequacy of resources.* (20 points) In determining the adequacy of resources for the proposed project, we consider the following factors:

(i) The adequacy of support from the applicant organization(s), including facilities, equipment, supplies, and other resources. (5 points)

(ii) The extent to which the budget is adequate and the costs are reasonable in relation to the number of persons to be served and the anticipated results and benefits of the proposed project. (5 points)

(iii) The relevance and demonstrated commitment of the applicant, local employers, or tribal entities to be served by the project (as evidenced by, for example, memoranda of understanding, letters of support, commitments to employ project participants). (5 points)

(iv) The potential for continued support of the project after Federal funding ends. (5 points)

(e) *Quality of the project evaluation.* (25 points) In determining the quality of the evaluation, we consider the following factors:

(i) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (5 points)

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and the Government Performance and Results Act of 1993 (GPRA) performance measures discussed elsewhere in this notice and will produce quantitative and qualitative data. (5 points)

(iii) The extent to which the methods of evaluation will provide performance feedback and continuous improvement toward achieving intended outcomes. (5 points)

(iv) The extent to which the proposed evaluation will be conducted by an external evaluator with appropriate background and technical expertise to carry out the evaluation. (5 points)

(v) The extent to which the methods of the evaluation include processes that consider the validity and integrity of data collection and analysis; accessibility of appropriate and timely data; accurate descriptions of performance; collection processes that yield unbiased, unprejudiced, and impartial data results; and the extent to which representation of the data clearly communicates an accurate picture of performance. (5 points)

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:* 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 directed by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.* We strongly encourage grantees to submit their reports through e-Reports, the Department's electronic performance reporting initiative.

4. *Performance Measures:* Under GPRA, Federal departments and agencies must clearly describe the goals and objectives of programs, identify resources and actions needed to accomplish goals and objectives, develop a means of measuring progress made, and regularly report on achievement. One important source of program information on successes and lessons learned is the project evaluation conducted under individual grants. The Department has developed the following GPRA performance measures for evaluating the overall effectiveness of TCPCTIP projects:

(a) The percentage of students mastering academic knowledge and skills that meet challenging State-defined or program-defined academic standards, as measured by the percentage of career and technical education students who receive degrees, certificates, or credentials.

(b) The percentage of students who meet State-established or program-established industry-validated career and technical skills standards.

(c) The percentage of programs offering skill competencies, related assessments, and industry-recognized skills certificates in postsecondary programs.

(d) The percentage of students who are retained in, and complete postsecondary career and technical education programs.

(e) The percentage of student placed in jobs, military service, or higher-level continuing education programs upon graduation or completion of the postsecondary career and technical education programs. Accordingly, each TCPCTIP grantee must assess progress on the above performance measures in evaluating the success of its project, and provide, in its annual performance and final reports, data about its progress on these measures.

VII. Agency Contact

For Further Information Contact: Lois Davis, U.S. Department of Education, 400 Maryland Avenue, SW., room 11063, Potomac Center Plaza, Washington, DC 20202–7241. Telephone: (202) 245–7784 or e-mail: *Lois.Davis@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: May 10, 2007.

Troy R. Justesen,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. E7–9314 Filed 5–14–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission (EAC).

ACTION: Notice of virtual public forum for EAC Standards Board.

DATE AND TIME: Thursday, May 17, 2007, 7 a.m. EDT through Tuesday, May 22, 7 a.m. EDT.

PLACE: EAC Standards Board virtual meeting room at *http://www.eac.gov.* Once at the main page mf EAC's Web site, viewers should click the link to the Standards Board Virtual Meeting Room. The virtual meeting room will open on Thursday, May 17, 2007, at 7 a.m. EDT and will close on Tuesday, May 22, at 7 a.m. EDT. The site will be available 24 hours per day during that 5-day period.

PURPOSE: The EAC Standards Board will review and provide comment on a draft EAC report that was developed by Design for Democracy. The draft report contains best practices suggestions on the design of voter information, optical scan ballots and direct recording electronic (DRE) ballots based on legislative guidelines, information design principles and user centered research.

The EAC Standards Board virtual meeting room was established to enable the Standards Board to review and discuss draft documents in a public forum when it is not feasible for an in-person board meeting. The May 17–22, 2007 forum is the first use of this virtual meeting room and as such is a test of the concept. The Standards Board will not take any votes or propose any resolutions during this 5-day forum. Members will post comments about the draft best practices suggestions for the design of voter information and ballots.

Statement of Exceptional Circumstances

This notice of a special forum will not be published in the **Federal Register** 15 days prior to the dates that the forum will be open. Late notice was unavoidable due to the short timeline between when EAC will receive the draft report and the scheduled date for final approval of June 14, 2007. The timetable for the noticed forum was expedited to allow EAC sufficient time to receive, review and consider comments from members of the Standards Board, EAC Board of Advisors and the public prior to preparation of the report.

This activity is open to the public. The public may view the proceedings of this special forum by visiting the EAC Standards Board virtual meeting room at *www.eac.gov* at any time between Thursday, May 17, 2007, 7 a.m. EDT and Tuesday, May 22, 2007, 7 a.m. EDT. The public also may view the draft report of suggested best practices for voter information and ballot designs, which will be posted on EAC's Web site beginning May 17, 2007. The public may file written statements to the EAC Standards Board at *standardsboard@eac.gov.*

Data on EAC's Web site is accessible to visitors with disabilities and meets

the requirements of Section 508 of the Rehabilitation Act.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07–2403 Filed 5–11–07; 12:14 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Pre-Announcement Meeting Notice for Financial Assistance Funding Opportunity Announcement (FOA) Number DE–PS36–07GO97012

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

ACTION: Notice of Pre-Announcement Meeting for Manufacturing Research and Development for Hydrogen and Fuel Cell Systems FOA.

SUMMARY: The Hydrogen, Fuel Cells and Infrastructure Technologies Program, under the DOE Office of Energy Efficiency and Renewable Energy, is planning to solicit financial assistance applications for cost-shared financial assistance agreements with the DOE for research and development that will advance manufacturing technologies for hydrogen and fuel cell systems. This Pre-Announcement Meeting will allow sources outside of DOE to review and comment on the proposed topics and scope of the planned announcement.

DATES: Pre-Announcement Meeting to be held 1 p.m. EDT, May 18, 2007.

ADDRESSES: The Pre-Announcement Meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Jill Gruber, Project Officer, via e-mail at *jill.gruber@go.doe.gov*. Further information on DOE's Hydrogen, Fuel Cells and Infrastructure Technologies Program can be viewed at *http://www.eere.energy.gov/hydrogenandfuelcells*.

SUPPLEMENTARY INFORMATION: During the Pre-Announcement Meeting, DOE is planning on reviewing the scope, topics and application process for the Manufacturing Research and Development for Hydrogen and Fuel Cell Systems FOA. Questions and comments will be solicited and answered about the content and scope of the FOA, including suggestions for research and development areas, clarification on proposed topics, and clarification on the application process and requirements. Proceedings from the meeting will be posted on the Web site at *http://www.eere.energy.gov/hydrogenandfuelcells*. DOE intends to release the FOA around June of 2007, with award(s) to be made about a year later.

Dated: Issued in Golden, CO, on May 7, 2007.

Matthew A. Barron,

Acting Procurement Director, Golden Field Office.

[FR Doc. 07–2390 Filed 5–14–07; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0738; FRL–8314–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Metal Can Manufacturing Surface Coating (Renewal); EPA ICR Number 2079.03; OMB Control Number 2060–0541

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before June 14, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0738, to (1) EPA online using www.regulations.gov (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T , 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leonard Lazarus, Compliance Assessment and Media Programs Division (CAMPD), Office of Compliance, (2223A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–6369; fax number: (202) 564–0050; e-mail address: *lazarus.leonard@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 5, 2006 (71 FR 58853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0738, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Metal Can Manufacturing Surface Coating (Renewal).

ICR Numbers: EPA ICR Number 2079.03; OMB Control Number 2060–0541.

ICR Status: This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is

pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Respondents are owners or operators of metal can manufacturing surface coating operations. Owners or operators of the affected facilities described must make initial reports when a source becomes subject to the standard, conduct and report on a performance test, demonstrate and report on continuous monitor performance, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to National Emission Standards for Hazardous Air Pollutants (NESHAP). Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 91 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of metal can manufacturing surface coating operations.

Estimated Number of Respondents: 71.

Frequency of Response: Initially, Semiannually, On Occasion.

Estimated Total Annual Hour Burden: 27,517.

Estimated Total Annual Cost: $2,522,768, which comprises no annualized capital costs, $85,200 O&M costs and $2,438,568 in labor costs.

Changes in the Estimates: The number of respondents has decreased from the most recently approved ICR due to an improved estimate of the number of facilities subject to 40 CFR part 63, subpart KKKK. Despite this decrease, the number of total annual responses has increased slightly due to a revised estimate that considers the semiannual report and excess emissions report separately, whereas the previous ICR grouped them as one report. There is an increase of 19,702 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The previous ICR included only the burden incurred by facilities initiating activities related to compliance in advance of the compliance date. The increase in burden is due to routine actions taken by the facilities to comply with 40 CFR part 63, subpart KKKK on an ongoing basis.

The previous ICR shows higher capital/startup and O&M costs than this ICR due to installation of monitoring equipment so that the only costs incurred are those associated with O&M of the monitoring equipment. At this point in time, all of the subject facilities have installed the required monitoring equipment.

Dated: May 7, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–9288 Filed 5–14–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0069; FRL–8314–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; The SunWise Program; EPA ICR Number 1904.03, OMB Control Number 2060–0439; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency published a notice in the **Federal Register** of February 12, 2007, concerning a request for comments on an Information Collection Request for the SunWise program, EPA ICR No. 1904.03, OMB Control No. 2060–0439. The notice contained an incorrect EPA ICR Number.

FOR FURTHER INFORMATION CONTACT: Kristinn Vazquez, (202) 343–9246.

Correction

In the **Federal Register** of February 12, 2007, in FR Doc. E7–2308, on page 6564, at the top of the second column, correct the title to read: Agency Information Collection Activities: Proposed Collection; Comment Request; The SunWise Program; EPA ICR No. 1904.03, OMB Control No. 2060–0439.

In the **Federal Register** of February 12, 2007, in FR Doc. E7–2308, on page 6565, at the top of the second column, correct the ICR numbers to read: EPA ICR No. 1904.03, OMB Control No. 2060–0439.

Dated: May 9, 2007.

Elizabeth Craig,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. E7–9292 Filed 5–14–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2007–0316; FRL–8314–9]

Agency Information Collection Activities; Proposed Collection; Comment Request; Notification of Episodic Releases of Oil and Hazardous Substances (Renewal); EPA ICR No. 1049.11, OMB Control No. 2050–0046

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44

U.S.C. 3501 et seq.), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on October 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 16, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2007–0316, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: *superfund.docket@epa.gov*.
- *Fax*: (202) 566–9744.
- *Mail*: Superfund Docket, Environmental Protection Agency, Mailcode: [2822T], 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery*: EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2007–0316. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Lynn M. Beasley, Regulation and Policy Development Division, Office of Emergency Management (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–1965; fax number: (202) 564–2625; e-mail address: *Beasley.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–SFUND–2007–0316, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Superfund Docket is 202–566–0276.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does this Apply to?

Affected entities: Entities potentially affected by this action are facilities or vessels that manufacture, process, transport, or otherwise use certain specified hazardous substances and oil.

Title: Notification of Episodic Releases of Oil and Hazardous Substances (Renewal)

ICR numbers: EPA ICR No.1049.11, OMB Control No. 2050–0046.

ICR status: This ICR is currently scheduled to expire on October 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection

instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 103(a) of CERCLA, as amended, requires the person in charge of a facility or vessel to immediately notify the National Response Center (NRC) of a hazardous substance release into the environment if the amount of the release equals or exceeds the substance's reportable quantity (RQ) limit. The RQ of every hazardous substance can be found in Table 302.4 of 40 CFR 302.4.

Section 311 of the CWA, as amended, requires the person in charge of a vessel to immediately notify the NRC of an oil spill into U.S. navigable waters if the spill causes a sheen, violates applicable water quality standards, or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

The reporting of a hazardous substance release that is above the substance's RQ allows the Federal government to determine whether a Federal response action is required to control or mitigate any potential adverse effects to public health or welfare or the environment. Likewise, the reporting of oil spills allows the Federal government to determine whether cleaning up the oil spill is necessary to mitigate or prevent damage to public health or welfare or the environment. The hazardous substance and oil release information collected under CERCLA section 103(a) and CWA section 311 also is available to EPA program offices and other Federal agencies that use the information to evaluate the potential need for additional regulations, new permitting requirements for specific substances or sources, or improved emergency response planning. Release notification information, which is stored in the national Emergency Response Notification System (ERNS) data base, is available to State and local government authorities as well as the general public. State and local government authorities and the regulated community use release information for purposes of local emergency response planning. Members of the general public, who have access to release information through the Freedom of Information Act, may request release information for purposes of maintaining an awareness of what types of releases are occurring in different localities and what actions, if any, are being taken to protect public health and welfare and the environment. ERNS fact sheets, which provide summary and statistical information about hazardous substance and oil release notifications, also are available to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.1 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 25,861.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: One.

Estimated total annual burden hours: 106,030 hours.

Estimated total annual costs: $4,277,384. This includes an estimated burden cost of $4,277,384 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates from the Last Approval?

There is a an increase of 7,294 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates for this collection based upon historical information on the number of responses made during the previous three year period. Based upon revised estimates, the number of responses increased from an estimated three year average of 24,082 to 25,861.

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: May 7, 2007.

Deborah Y. Dietrich,

Director, Office of Emergency Management.

[FR Doc. E7–9295 Filed 5–14–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8314–8]

Science Advisory Board Staff Office; Notification of a Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public face-to-face meeting of the chartered SAB to: (1) Discuss science use in disaster response programs; (2) conduct a quality review of the draft SAB report *Advice to EPA on Advancing the Science and Application of Ecological Risk Assessment in Environmental Decision Making* and the Draft letter *Consultation on EPA's Risk and Technology Review (RTR)*

Assessment Plan; and (3) continue planning for upcoming SAB meetings.

DATES: The meeting dates are Tuesday, June 19, 2007, from 8:30 a.m. to 5:30 p.m. through and Wednesday, June 20, 2007, from 8:30 a.m. to 12:30 p.m. (Eastern Time).

ADDRESSES: The meeting will be held in the U.S. EPA Science Advisory Board Conference Room, 3rd Floor, Woodies Building, 1025 F Street, NW, Washington, DC 20004, phone (202) 343–9999.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain additional information about this meeting may contact Mr. Thomas O. Miller, Designated Federal Officer (DFO), by mail at the EPA SAB Staff Office, (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9982; by fax at (202) 233–0643; or by e-mail at: *miller.tom@epa.gov*. The SAB mailing address is: U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Ave., NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The SAB is exploring the use of science in preparing for and responding to environmental disasters. The SAB held a meeting on this topic on December 12–14, 2006 during which several non-EPA experts discussed their experiences with disaster preparedness and response (71 FR 67566). The chartered SAB will also conduct a quality review of the draft report, *Advice to EPA on Advancing the Science and Application of Ecological Risk Assessment in Environmental Decision Making*. Background information on this report can be found in **Federal Register** Notices published on September 8, 2005 (70 FR 53360), June 20, 2006 (71 FR 35421), and December 27, 2006 (71 FR 77744). The chartered SAB will also conduct a quality review of the draft letter *Consultation on EPA's Risk and Technology Review (RTR) Assessment Plan*. Background information on this advisory can be found in a **Federal Register** Notice published on November 14, 2006 (71 FR 66328). Finally, the SAB will discuss plans for future meetings.

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of this meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the advisory process.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than one hour for all speakers. Interested parties should contact Mr. Miller, DFO, at the contact information provided above, by June 12, 2007, to be placed on the public speaker list for the June 19–20, 2007 meeting.

Written Statements: Written statements should be received in the SAB Staff Office by June 12, 2007, so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail to: *miller.tom@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact Mr. Thomas Miller at (202) 343–9982, or via e-mail at *miller.tom@epa.gov*. To request accommodation of a disability, please contact Mr. Miller, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 8, 2007.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–9290 Filed 5–14–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Advisory Committee on Diversity for Communications in the Digital Age

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Advisory Committee on Diversity for Communications in the Digital Age (''Diversity Committee'') will hold a meeting on May 29, 2007, at 2 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street, SW., Washington, DC 20554. This will be an organizational meeting, with no new work product being presented. Barbara Kreisman is the Diversity Committee's Designated Federal Officer.

DATES: May 29, 2007.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara Kreisman, Designated Federal Officer of the FCC's Diversity Committee (202) 418–7452 or e-mail: *Barbara.kreisman@fcc.gov.*

SUPPLEMENTARY INFORMATION: At this meeting, the Diversity Committee will discuss and consider possible areas in which to develop recommendations that will further enhance the ability of minorities and women to participate in the telecommunications and related industries.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. The public may submit written comments before the meeting to: Barbara Kreisman, the FCC's Designated Federal Officer for the Diversity Committee by e-mail: *Barbara.Kreisman@fcc.gov* or U.S. Postal Service Mail (Barbara Kreisman, Federal Communications Commission, Room 2–A665, 445 12th Street, SW., Washington, DC 20554).

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via e-mail to *fcc504@fcc.gov* or by calling the

Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Additional information regarding the Diversity Committee can be found at *http://www.fcc.gov/DiversityFAC.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–9301 Filed 5–14–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011223–039.

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 Zim Integrated Shipping Services, Ltd. as a party to the agreement.

Agreement No.: 011795–003.

Title: Puerto Rico Cross Space Charter and Sailing Agreement.

Parties: Compania Sud Americana de Vapores S.A. and Compania Chilena de Navegacion Interoceanica S.A.

Filing Party: Walter H. Lion, Esq.; McLaughlin & Stern, LLP; 260 Madison Avenue; New York, NY 10016.

Synopsis: The amendment adds the Dominican Republic to the geographic scope of the agreement.

Agreement No.: 011929–002.

Title: Hapag-Lloyd/Zim Mediterranean Slot Exchange Agreement.

Parties: Hapag-Lloyd AG and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment expands the scope of the agreement to cover countries bordering on the Mediterranean Sea.

Agreement No.: 011942–002.

Title: CMA–CGM/CSCL Cross Space Charter, Sailing and Cooperative Working Agreement—Far East/US Gulf Loop, PEX2/PEX3/AAE2 Service.

Parties: CMA–CGM, S.A.; China Shipping Container Lines Co., Ltd.; and China Shipping Container Lines (Hong Kong) Co., Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment authorizes the swapping of space between the parties in connection with another service loop under a different vessel-sharing agreement.

Agreement No.: 011946–001.

Title: CMA CGM/CSCL Cross Space Charter, Sailing, and Cooperative Working Agreement—Far East/USEC Loop, PEX1/AAE1 Service.

Parties: CMA CGM, S.A.; China Shipping Container Lines Co., Ltd.; and China Shipping Container Lines (Hong Kong) Co., Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment reduces the geographic scope, reduces the number of vessels in the service, decreases the sailing time of the service string, and authorizes the swapping of space between the parties in connection with another service loop under a different vessel-sharing agreement.

Dated: May 10, 2007.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–9313 Filed 5–14–07; 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: 020114NF.

Name: BC Global Logistics, Incorporated.

Address: 1210 W. Euclid Ave., Arlington Heights, IL 60005.

Date Revoked: April 24, 2007.

Reason: Surrendered license voluntarily.

License Number: 019629N.

Name: Freight Services of West Coast Corp. dba Omega Logistics.

Address: 353 North Oak Street, Unit B, Inglewood, CA 90302.

Date Revoked: April 27, 2007.

Reason: Failed to maintain a valid bond.

License Number: 000444F.

Name: H. A. Gogarty, Inc.

Address: 7 Pearl Street, Hawthorne, NY 10532.

Date Revoked: April 30, 2007.

Reason: Failed to maintain a valid bond.

License Number: 004466F.

Name: Impex Cargo, Inc.

Address: 2618 NW 72nd Ave., Miami, FL 33122.

Date Revoked: May 5, 2007.

Reason: Failed to maintain a valid bond.

License Number: 020091N.

Name: Oceanic Export Inc.

Address: 147 Knollwood Terrace, Clifton, NJ 07012.

Date Revoked: May 5, 2007.

Reason: Failed to maintain a valid bond.

License Number: 019930NF.

Name: Oxford Transport, Inc.

Address: 500 W. 140th Street, Gardena, CA 90248.

Date Revoked: April 30, 2007.

Reason: Surrendered license voluntarily.

License Number: 019267N.

Name: Seagold (USA) Inc.

Address: 262 W. 38th Street, Ste. 406, New York, NY 10018.

Date Revoked: May 3, 2007.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–9323 Filed 5–14–07; 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 part 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 and Ocean Freight Forwarder Transportation Intermediary Applicants

Scotia Ocean Services, LTD, 15550 Vickery Drive, Suite 100, Houston, TX 77032, Michael K. McGovern, Sole Proprietor.

Caribbean Ocean Corp. (JA), 8005 NW 80th Street, Unit 4, Miami, FL 33167. *Officers:* Hugh Osborne, Vice President. (Qualifying Individual), Dean Osborne, President.

Total Forwarding LLC dba Norse Ocean Lines, dba Total Forwarding, 130 Grandview Trace, Fayetteville, GA 30215. *Officer:* Johnny S. Flaten, Director (Qualifying Individual).

Aarid Enterprise Corp., 1340 Chesapeake Ave., Baltimore, MD 21226. *Officers:* William Donald Dailey, President, Anita Lynn Knapp, Vice President, Betty Lee Lewis, Secretary (Qualifying Individuals).

Dated: May 10, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–9330 Filed 5–14–07; 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 May 30, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Atwood Holdings Limited Partnership, Trezevant, Tennessee, and George L. Atwood, Trezevant, Tennessee, as general partner; to gain control of F & M Bancshares, Inc., Trezevant, Tennessee, and thereby indirectly gain control of Citizens City and County Bank, Trenton, Tennessee, and Farmer's and Merchants Bank, Trezevant, Tennessee.

Board of Governors of the Federal Reserve System, May 10, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–9264 Filed 5–14–07; 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 June 8, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. NorthStar Banking Corporation; to become a bank holding company by acquiring 100 percent of the voting shares of NorthStar Bank (in organization), both of Tampa, Florida.

2. Southern National Corporation, Andalusia, Alabama; to acquire 100 percent of the voting shares of People's Community Bank of the West Coast, Sarasota, Florida.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. American Heritage Holdings; to become a bank holding company by acquiring 100 percent of the voting shares of Borrego Springs Bank, N.A., both of La Mesa, California.

Board of Governors of the Federal Reserve System, May 9, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–9229 Filed 5–14–07; 8:45 am]

BILLING CODE 6210–01–S

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''). The Federal Trade Commission (''FTC or Commission'') is seeking public comments on its proposal to extend through September 30, 2010, the current PRA clearance for information collection requirements contained in its regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986 (''Smokeless Tobacco Act'' or the ''Act''). That clearance expires on September 30, 2007.

DATES: Comments must be submitted on or before July 16, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Smokeless Tobacco Regulations: FTC File No. R011009'' 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 described 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 clearing labeled ''Confidential.'' [1]

Comments filed in electronic form should be submitted by following the instructions on the web-based form at *https://secure.commentworks.com/ftc-SmokelessTobaccoRegs.* To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the *https://secure.commentworks.com/ftc-SmokelessTobaccoRegs* weblink. 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.

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 *www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy/htm.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Rosemary Rosso, Senior Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2174.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501–3520, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Smokeless Tobacco Act regulations (OMB Control No. 3084–0082).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance or functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of information to be collected; and (4) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before July 16, 2007.

Description of the collection of information and proposed use: The Smokeless Tobacco Act requires that manufacturers, packagers, and importers of smokeless tobacco products include one of three specified health warnings on packages and in advertisements. The Act also requires that each manufacturer, packager, and importer of smokeless tobacco products submit a plan to the Commission specifying the method to rotate, display, and distribute the warning statements required to appear in advertising and labeling. The Act requires the Commission to determine whether these plans provide for rotation, display, and distribution of warnings in compliance with the Act and implementing regulations. To the best of the Commission's knowledge, all of the affected companies have previously filed plans. However, the plan submission requirement also applies to a company that amends its plan, or to a new company that enters the market.

Burden statement: Commission staff estimates of paperwork burden are based on its knowledge of the smokeless tobacco industry and the time companies require to prepare rotational warning plans for submission to and review by the Commission. Staff's estimates are further informed by discussions it has had with companies filing rotational plans or their representatives during the Commission's review of submitted plans. In estimating total annual burden hours and associated labor costs, staff considered its experience gained from the plans submitted over the past five years. Based on these factors, staff estimates that the average annual paperwork burden for the three-year clearance period sought is no more than 1,000 hours, with associated annual labor cost of no more than $203,000.

The five smokeless tobacco manufacturers that comprise the dominant share of the domestic smokeless tobacco market filed their plans with the Commission long ago. Additional annual reporting burden would occur only if a company introduces a new brand or otherwise opts to display the health warnings in a manner not previously approved. Under those circumstances, a company would need to file an amendment to its plan. Although it is not possible to predict whether any of these companies will seek to amend an existing approved plan (and possibly none will), staff conservatively assumes that each of these five smokeless tobacco companies will file one amendment per year, for a total burden of not more than 200 hours. This estimate is conservative because over the past five years, none of these companies filed amendments to their existing plans, and the Commission has not changed the relevant regulations. The estimated time to prepare the amended plans submitted by these companies is less than 40 hours each. The only major amendment of an approved plan over the past ten years required less than 40 hours to prepare. Commission staff believes it reasonable to assume that each of these five smokeless tobacco companies would spend no more than 40 hours to prepare an amended plan, and possibly considerably less time if the amendment

[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).

would be minor or applied only to one brand or brand variety.

Commission staff also estimates that over the requested three-year clearance period up to four smokeless tobacco manufacturers, packagers, or importers will file an initial plan that includes rotational schemes for both packaging and advertising, for an additional burden of no more than 240 hours. This estimate is conservative because over the past five years, only four initial plans with both packaging and advertising schemes have been filed with the FTC. When the regulations were first proposed in 1986, representatives of the Smokeless Tobacco Council, Inc. indicated that the six companies it represented would require approximately 700 to 800 hours in total (133 hours each) to complete the initial required plans, involving multiple brands, multiple brand varieties, and multiple forms of both packaging and advertising. The four initial plans submitted over the past five years are considerably less complex. Each of these plans involves only one or two brands or brand varieties, with more limited types of advertising and packaging. In addition, three of the four companies submitting plans had prior familiarity with the preparation of rotational warning plans. Further, increased computerization and improvements in electronic communication over the past 20 years have decreased the time needed for the preparation and drafting of rotational warning plans. Staff estimates that it would require no more than 60 hours to prepare such an initial plan, and that four initial plans will be submitted.

Staff anticipates that over the next three years, up to four smokeless tobacco manufacturers, packagers, or importers may submit initial plans covering packaging alone, for an additional burden of no more than 160 hours. Over the past five years, the Commission has received four such plans. Because each of the plans involved only a single brand, a single form of packaging, and no advertising, the estimated time to prepare the plans is very modest. Staff anticipates that the companies that submit initial plans covering packaging alone will spend no more than 40 hours each to prepare the plans, and possibly considerably less. This estimate is conservative. Like other estimates stated herein, this is based on the total number of plans submitted to the FTC over the past five years, rather than annually.

Finally, staff estimates that over the next three years, up to four amendments will be filed by companies other than the five largest smokeless tobacco manufacturers. Over the past five years, the Commission has received four such plans. Each of the amendments involved very modest changes to the existing plans. Staff estimates that four companies submitting similar amended plans will spend no more than 20 to 40 hours each to prepare the amendments, for an additional burden estimate of no more than 160 hours. As above, this is conservatively based on the total number of plans submitted to the FTC over the past five years, rather than annually.

Estimated total annual hours burden: 1,000 hours.

Based on these assumptions, the total annual hours should not exceed 1,000 hours. [(5 companies × 40 hours each) + (4 companies × 60 hours each) + (4 companies × 40 hours each) + (4 companies × 40 hours each) = 760 total hours, rounded to one thousand hours]

Estimated labor costs: $203,000.

The total annualized labor cost to these companies should not exceed $203,000. This is based on the assumption that management or attorneys will account for 80% of the estimated 1,000 hours required to draft initial or amended plans, at an hourly rate of $250 per hour, and that clerical support will account for the remaining time (20%) at an hourly rate of $15. [Management and attorneys' time (1,000 hours × 0.80 × $250 = $200,000) + clerical time (1,000 hours × 0.20 × $15 = $3,000) = $203,000]

Estimated annual non-labor cost burden: $0 or minimal.

The applicable requirements impose minimal start-up costs. The companies may keep copies of their plans to ensure that labeling and advertising complies with the requirements of the Smokeless Tobacco Act. Such recordkeeping would require the use of office supplies, e.g., file folders and paper, all of which the companies should have on hand in the ordinary course of their business.

While companies submitting initial plans may incur one-time capital expenditures for equipment used to print package labels in order to include the statutory health warnings or to prepare acetates for advertising, the warnings themselves disclose information completely supplied by the federal government. As such, the disclosure does not constitute a ''collection of information'' as it is defined in the regulations implementing the PRA, nor, by extension, do the financial resources expended in relation to it constitute paperwork ''burden.'' *See* 5 CFR 1320.3(c)(2). Moreover, any expenditures relating to the statutory health warning requirements would likely be minimal in any event. For companies that have already submitted approved plans, there are no capital expenditures. After the Commission approves a plan for the rotation and display of the warnings required by the Smokeless Tobacco Act, the companies are required to make additional submissions to the Commission only if they choose to change the way they display the warnings. Once companies have prepared the artwork for printing the required warnings on package labels, there are no additional start-up costs associated with the display of the warnings on packaging. Similarly, once companies have prepared artwork and possibly acetates for the display of the warnings in advertising, there are no additional start-up costs associated with printing the warnings in those materials.

William Blumenthal,

General Counsel.

[FR Doc. E7–9304 Filed 5–14–07; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on June 7, 2007, from 9 a.m. to 5:30 p.m., and on June 8, 2007, from 9 a.m. to 4 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 443–H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvpo@hhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National

Vaccine Advisory Committee was established to provide advice and make recommendations to the Assistant Secretary for Health, as the Director of the National Vaccine Program, on matters related to the program's responsibilities.

Topics to be discussed at the meeting include seasonal influenza, pandemic vaccine prioritization, vaccine financing, and other Departmental vaccine priorities. Subcommittees meetings will be held on the afternoon of June 7, 2007. A tentative agenda is currently available on the NVAC Web site: *www.hhs.gov/nvpo/nvac.*

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business June 1, 2007. Pre-registration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvpo@hhs.gov* or call 202–690–5566.

Dated: May 9, 2007.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. E7–9346 Filed 5–14–07; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–07–0650]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 371–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Prevention Research Center Information System—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In spring 2003, CDC published RFA #04003 (FY 2003–2009) for the Prevention Research Centers Program. The RFA introduced a set of performance indicators developed collaboratively with the PRCs and other stakeholders and are consistent with federal requirements that all agencies, in response to the Government Performance and Results Act of 1993, prepare performance plans and collect program-specific performance measures. Currently, CDC provides funding to 33 PRCs selected through competitive peer review process and managed as CDC cooperative agreements. Awards are made for five (5) years and may be renewed through a competitive RFA process. PRCs are housed in a school of public health, medicine, or osteopathy and conduct health promotion and disease prevention research using a community-based participatory approach.

The Centers for Disease Control and Prevention (CDC) is seeking a 3 year Office of Management and Budget (OMB) approval for an extension of a reporting system for the Prevention Research Centers Program Information System. In accordance with the original OMB approval (0920–0650), the modification approved September 2005 (to add work plans and progress reports and to increase burden from 28 PRCs to 33 PRCs), and the modification approved November 2006 (to delete, modify, and add questions related to the performance indicators with no change in burden), this requested 3 year extension will continue the data collection as approved. The Information System (IS) is a web-based, password protected technical reporting system that allows the accurate, uniform, and complete collection of PRC information using the Internet. The IS allows CDC to monitor and report on PRC activities efficiently and effectively. Data reported to CDC through the PRC IS are used to identify training and technical assistance needs, monitor compliance with cooperative agreement requirements, evaluate the progress made in achieving center-specific goals and objectives, and obtain information needed to describe the impact and effectiveness of the overall program as needed to respond to Congressional and other inquiries regarding the PRC Program. The annual report and record keeping burden is the same as the modification approved September 2005.

There are no costs to respondents except their time to participate in the survey. The total estimated annualized burden hours are 279.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Clerical	33	2	2.73
Directors	33	2	1.5

Dated: May 7, 2007.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–9269 Filed 5–14–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–07–05DA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Surveillance of HIV/AIDS Related Events Among Persons Not Receiving Care-New-National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

A committee from the Institute of Medicine (IOM) recently reviewed, at the request of Congress, the status of HIV/AIDS surveillance in the U.S. In the resulting report, three populations of interest were outlined, including persons infected with HIV, who have a diagnosis of HIV but are not receiving care.

There are approximately 1 million HIV-infected persons in the United States. Of these, an estimated 75 percent know they are infected, but approximately half of those who know they are infected do not have evidence of having received any medical care for their HIV infection. Existing HIV/AIDS surveillance systems provide little information about HIV-infected persons who are not receiving care, especially those who have never entered care. In addition, an estimate of the size and immunologic status of the latter group is critically important for estimating resources needed to support linkage to care. Furthermore, identifying factors related to not being linked to care will be important in designing effective interventions.

Based on the IOM recommendations and to address the needs described above, CDC is working with state and local health departments in five project areas to pilot a population-based supplemental surveillance system, ''Surveillance of HIV/AIDS Related Events Among Persons Not Receiving Care,'' also called the Never In Care (NIC) Project. The NIC Project is designed to describe HIV-infected persons who are at least 90 days post diagnosis and have never received HIV care. The project will be conducted over a three-year period and will obtain data on a total of 1,000 persons (approximately 500 per year) with HIV/AIDS. The data collection will include interview-based data only.

The methods were developed in light of recommendations from the IOM, an earlier population-based survey of persons receiving care for HIV infection, and earlier CDC pilots of population-based methods.

For this proposed data collection, participating public health jurisdictions will conduct structured interviews with HIV-infected persons identified using their HIV/AIDS surveillance and supplemental laboratory databases or through HIV diagnostic and case management service providers. The target number of structured interviews is 1,000 over 2 years of data collection. Qualitative interviews will be conducted with the first 75 persons who agree to a second interview. The information to be collected includes demographic data, HIV testing history, high-risk drug use and sexual behaviors, reasons for not using health care and treatment, and unmet needs.

Results from this project will be used to develop estimates of the medical services and resources needed for persons who are infected with HIV, but who have not received medical care and treatment. Additionally, new data related to those not receiving care may be used to design effective interventions for linking persons to care. The data will have implications for policy, program development, and resource allocation at the state/local and national levels.

Users of NIC data include, but are not limited to, Federal agencies, state and local health departments, clinicians, researchers, and HIV prevention and care planning groups. Participation in the data collection is voluntary and there is no cost to respondents to participate in the survey other than their time. The total estimated annualized burden hours is 325.

ESTIMATED ANNUALIZED BURDEN HOURS

Types of data collection	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Structured Interview	500	1	30/60
Qualitative Interview	75	1	1

Dated: May 7, 2007.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–9272 Filed 5–14–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–07–0669]

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 or send comments to Maryam Daneshvar, Acting CDC 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

Evaluation of State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The ''State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases'' project was established by CDC to prevent and control obesity and other chronic diseases by supporting States in the development and implementation of nutrition and physical activity interventions, particularly through population-based strategies such as policy-level changes, environmental supports and the social marketing process. The goal of the programs in this project is to attain population-based behavior change such as increased physical activity and better dietary habits; this leads to a reduction in the prevalence of obesity, and ultimately to a reduction in the prevalence of chronic diseases. The evaluation questions for ''State Nutrition and Physical Activity Programs to Prevent Obesity and Other Chronic Diseases'' have been designed to focus on the recipient activities as outlined in the original funding announcement:

- Capacity building
- Collaboration
- Planning
- Monitoring the burden of obesity
- Intervention
- Evaluation

Within each of these areas, the plan identifies specific evaluation questions that have been chosen for study. The evaluation questions are asked of the funded states via a web-based data collection system supported by an electronic database every 6 months during the funding cycle. The project will continue to be conducted over a 3-year period.

There are no costs to respondents except their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
State Project Coordinators of Funded State Programs	28	2	8	448
Assistants to State Project Coordinators of Funded State Programs	28	2	4	224
Total	56			672

Dated: May 7, 2007.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–9274 Filed 5–14–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–07–0658]

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 Maryam Daneshvar, 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

Capacity Building Assistance (CBA) Information, Collection, Reporting, and Monitoring (OMB# 0920–0658)—two year extension of the currently approved collection—National Center for HIV and AIDS, Viral Hepatitis, Sexually Transmitted Disease, Tuberculosis Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain OMB clearance to extend the 3-year clearance for information collection to monitor the HIV prevention activities of CBA provider grantees funded by CDC to provide HIV prevention CBA from April, 1 2004 through March 31, 2009. Capacity building is a key strategy for the promotion and sustainability of health prevention programs. Capacity building generally refers to the skills, infrastructure, and resources of organizations and communities that are necessary to effect and maintain behavior change, thus reducing the level of risk for disease, disability, and injury. CDC is responsible for monitoring and evaluating HIV prevention activities conducted under these cooperative agreement numbers 04019, 05015, and 06608. Reporting and monitoring forms have been used to collect information that assists in enhancing and assuring quality programming. CDC requires current information regarding CBA activities and services supported through these cooperative agreements. Therefore, forms such as the Trimester Interim Progress Report, CBA Notification Form, CBA Completion Form, and the CBA Training Events Report are considered a critical component of the monitoring/evaluation process. Because this program encompasses approximately 32 CBA provider organizations, there is a continued need for a standardized system for reporting individual episodes of CBA delivered by all CBA provider grantees. The information collected from the Trimester Progress Report, CBA Notification, CBA Completion Form, and the CBA Training Events Report, will allow CDC to further identify problems and technical assistance needs of CBO, or CBA grantees in a timely fashion and subsequently improve the effectiveness of CBA program activities and to ensure that they are aligned with national goals. The data collected using the CBA Notification and Completion Forms, and the Training Events Report are now being collected via a web portal (*www.cdc.gov/hiv/cba*) that has gone through a Certification and Accreditation process. Continued collection of this data in addition to the Trimester Progress Report will assist CDC, to aggregate data, and to discern and refine national goals and objectives for HIV prevention capacity building. This information collection process is also valuable for grantees as a management tool to routinely examining CBA program performance by assessing strengths and weaknesses in line with the CBA program, performance indicators, and national objectives.

It is estimated that form A will require 4 hours of preparation by the respondent, form B will require 15 minutes of preparation by the respondent, and form C will require 30 minutes of preparation by the respondent, and form D will require 2 hours of preparation by the respondent. In aggregate, report preparation requires approximately 1952 burden hours by each respondent. There is no cost to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Avgerage burden hours per response	Response burden (in hours)
Form A: CBA Trimester Report	32 Grantees	3	4	384
Form B: CBA Notification Form	32 CBA Provider Grantees	50	15/60	400
Form C: CBA Completion Form	32 CBA Provider Grantees	25	30/60	400
Form D: CBA Training Events Report	32 CBA Provider Grantees	12	2	768
Total				1952

Dated: May 7, 2007.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–9276 Filed 5–14–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–07–0007]

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 or send comments to Maryam I. Daneshvar, Acting, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Weekly and Annual Morbidity and Mortality Reports, 0920–0007–Extension—National Center for Health Marketing (NCHM), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is responsible for the collection and dissemination of nationally notifiable diseases' information and for monitoring and reporting the impact of epidemic influenza on mortality, Public Health Service Act (42 U.S.C. 241).

In 1878, Congress authorized the U.S. Marine Hospital Service (later renamed the U.S. Public Health Service) to collect morbidity reports on cholera, smallpox, plague, and yellow fever from U.S. consuls overseas; this information was to be used for instituting quarantine measures to prevent the introduction and spread of these diseases into the United States. In 1879, a specific Congressional appropriation was made for the collection and publication of reports of these notifiable diseases. Congress expanded the authority for weekly reporting and publication in 1893 to include data from state and municipal authorities throughout the United States. To increase the uniformity of the data, Congress enacted a law in 1902 directing the Surgeon General of the Public Health Service (PHS) to provide forms for the collection and compilation of data and for the publication of reports at the national level.

Reports on notifiable diseases were received from very few states and cities prior to 1900, but gradually more states submitted monthly and annual summaries. In 1912, state and territorial health authorities—in conjunction with PHS—recommended immediate telegraphic reports of five diseases and monthly reporting by letter of 10 additional diseases, but it was not until after 1925 that all states reported regularly. In 1942, the collection, compilation, and publication of morbidity statistics, under the direction of the Division of Sanitary Reports and Statistics, PHS, was transferred to the Division of Public Health Methods, PHS.

A PHS study in 1948 led to a revision of the morbidity reporting procedures, and in 1949 morbidity reporting activities were transferred to the National Office of Vital Statistics. Another committee in PHS presented a revised plan to the Association of State and Territorial Health Officers (ASTHO) at its meeting in Washington, DC, October 1950. ASTHO authorized a Conference of State and Territorial Epidemiologists (CSTE) for the purpose of determining the diseases that should be reported by the states to PHS. Beginning in 1951, national meetings of CSTE were held every two years until 1974, then annually thereafter.

In 1961, responsibility for the collection of data on nationally notifiable diseases and deaths in 122 U.S. cities was transferred from the National Office of Vital Statistics to CDC. For over 40 years the Morbidity and Mortality Weekly Report (MMWR) has consistently served as the CDC premier communication channel for disease outbreaks and trends in health and health behavior. The data collected for publication in the MMWR provides information which CDC and State epidemiologists use to detail and more effectively interrupt outbreaks. Reporting also provides the timely information needed to measure and demonstrate the impact of changed immunization laws or a new therapeutic measure. Users of data include, but are not limited to, congressional offices, state and local health agencies, health care providers, and other health related groups.

The dissemination of public health information is accomplished through the MMWR series of publications. The publications consist of the MMWR, the CDC Surveillance Summaries, the Recommendations and Reports, and the Annual Summary of Notifiable Diseases.

There are no costs to respondents except their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of esponses per respondent	Average burden per respondent (in hours)	Total burden (in hours)
Weekly Morbidity Report Respondent Burden				
States	50	52	1	2600
Territories	4	52	1	208
	1	52	30/60	26
Cities	2	52	1	104
Subtotals	57			2938
CDC 43.5 Weekly Mortality Report Respondent Burden				
City health officers or vital statistics registrars	122	52	12/60	1269
Summary Respondent Burden				
States	50	1	14	700
Territories	5	1	14	70
Cities	2	1	14	28
Subtotals				798
Totals	179			5803

* Reports.

Dated: May 7, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–9279 Filed 5–14–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Tribal TANF (Temporary Assistance for Needy Families) Financial Report, Form ACF–196T.

Description: Authority to collect and report this information is found in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. 104–193. Tribal entities with approved Tribal plans for implementation of the TANF program are required by statute to report financial data. Form ACF–196T provides for collection of Federal expenditures data. Failure to collect this data would seriously compromise the Administration for Children and Families' (ACF) ability to monitor expenditures and maintain financial management of the Tribal TANF program. The financial data collected is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress. Federal policy requires the strictest controls on funding requirements, which necessitates review of documentation in support of Tribal expenditures for reimbursement. Comments received from a previous effort to implement a similar Tribal TANF report Form ACR–196T were used to guide ACF in the development of the updated report form presented with this submittal.

Respondents: All Tribal TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196T	56	1	8	448

Estimated Total Annual Burden Hours: 448

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60-days of this publication.

Dated: May 9, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–2369 Filed 5–14–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG 2007–28091]

Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Merchant Marine Personnel Advisory Committee (MERPAC). MERPAC provides advice and makes recommendations to the Coast Guard on matters related to the training, qualification, licensing, certification, and fitness of seamen serving in the U.S. merchant marine.

DATES: Applications should reach us on or before July 1, 2007.

ADDRESSES: You may request an application form by writing to Commandant (CG–3PSO–1), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001. Please submit applications to the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Mark C. Gould, Assistant to the Executive Director, telephone 202–372–1409, fax 202–372–1926.

SUPPLEMENTARY INFORMATION: This notice is available on the Internet at *http://dms.dot.gov/search/searchFormSimple.cfm* under the docket number [USCG–2007–28091]. The application form is also available on the Internet at *http://www.uscg.mil/hq/g-m/advisory/index.htm.* You may also obtain an application by calling Mr. Mark Gould at (202) 372–1409; by e-mailing him at *mark.c.gould@uscg.mil;* by faxing him at (202) 372–1926; or by writing him at the location in **ADDRESSES** above.

MERPAC is chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended). It provides advice and makes recommendations to the Assistant Commandant for Prevention on matters of concern to seamen serving in our merchant marine, such as implementation of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended.

MERPAC normally meets twice a year, once at or near Coast Guard Headquarters, Washington, DC, and once elsewhere in the country. Its subcommittees and working groups may

also meet to consider specific tasks as required.

The Coast Guard will consider applications for seven positions that expire or become vacant in January 2008. It needs applicants with one or more of the following backgrounds to fill the positions:

(a) Pilot;
(b) Licensed deck officer;
(c) Licensed engineering officer;
(d) Shipping company representative;
(e) Able Bodied seaman;
(f) Marine educator not affiliated with either state or federal maritime academies; and
(g) Marine educator affiliated with the federal maritime academy.

Each member serves for a term of three years. MERPAC members serve without compensation from the Federal Government; however, they do receive travel reimbursement and per diem.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Dated: May 4, 2007.

J.G. Lantz,

Director of National and International Standards, Assistant Commandant for Prevention.

[FR Doc. E7–9268 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–27987]

National Maritime Security Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Committee Management: request for applicants for appointment/reappointment to the National Maritime Security Advisory Committee.

SUMMARY: The Secretary of the Department of Homeland Security is requesting individuals who are interested in serving on the National Maritime Security Advisory Committee to apply for appointment/reappointment. NMSAC provides advice and makes recommendations on national maritime security matters to the Secretary of Homeland Security via the Commandant of the United States Coast Guard.

DATES: Applications for membership must be sent complete and postmarked to the Coast Guard address listed below no later than 4 p.m. EDT June 29, 2007.

ADDRESSES: Interested candidates may request an application form by one of the following methods:

- *E-mail: NMSAC@uscg.mil*, Subject line: NMSAC Application Form Request,
- *Fax:* 202–372–1905, ATTN: NMSAC DFO/EA, please provide name, mailing address and telephone and fax numbers to send application forms to.
- *Mail:* Send written requests for forms and completed application packets to: USCG-NMSAC Executive Secretary, CG–3PCP–1, Room 5302, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001, please provide name, mailing address and telephone and fax numbers to send application forms to.
- *Internet:* To download a PDF or MS-Word application form visit NMSAC Web site at *http://homeport.uscg.mil/mycg/portal/ep/home.do* under Missions>Maritime Security>National Maritime Security Advisory Committee>Member Application Forms.

FOR FURTHER INFORMATION CONTACT: Mr. Ike Eisentrout, Commandant (CG–3PCP–1), NMSAC Executive Secretary, U.S. Coast Guard Headquarters, Room 5302, 2100 Second St., SW., Washington, DC 20593–0001, *brian.k.eisentrout@uscg.mil*, Phone: 202–372–1119, Fax: 202–372–1905.

SUPPLEMENTARY INFORMATION: The National Maritime Security Advisory Committee (NMSAC) is an advisory committee established in accordance with the provisions of the Federal Advisory Committee Act 5 U.S.C. App. 2. Section 70112 to Title 46 of the U.S. Code requires the Secretary of the Department in which the Coast Guard is operating to establish a NMSAC. The NMSAC advises, consults with, reports to, and makes recommendations to the Secretary on matters relating to national maritime security. Such matters may include, but are not be limited to:

- Developing a national strategy and policy to provide for efficient, coordinated and effective action to deter and minimize damage from maritime transportation security incidents;
- Recommending actions required to meet current and future security threats to ports, vessels, facilities, waterways and their associated inter-modal transportation connections and critical infrastructure;
- Promoting international cooperation and multilateral solutions to maritime security issues;
- Addressing security issues and concerns brought to the Committee by segments of the marine transportation industry, or other port and waterway stakeholders; and,
- Examining such other matters, related to those above, that the Secretary may charge the Committee with addressing.

NMSAC members' terms of office will be for 5 years. For this solicitation terms will commence on January 1, 2008 and end December 31, 2010. While 46 U.S.C. 70112 states the NMSAC terminates on September 30, 2008, appointments will be made in anticipation of an extension of this statutory authority. Current members are eligible to serve an additional term of office but must re-apply in accordance with this notice. Full NMSAC (in-person) meetings are normally conducted two to three times per fiscal year. Working group meetings and teleconferences are held more frequently, as needed. While attending meetings or when otherwise engaged in committee business, members will be reimbursed for travel and per diem expenses as permitted under applicable Federal travel regulations. However, members will not receive any salary or other compensation for their service on the NMSAC. Due to the nature of NMSAC business, NMSAC members are required to apply for, obtain and maintain a government national security clearance at the Secret level. The Coast Guard will sponsor and assist candidates with this process.

Specific Qualifications: NMSAC members are appointed in writing by the Secretary of Homeland Security. Members from the following sectors of the marine transportation industry with a minimum of five years experience in their field are encouraged to apply:

- Port Operations Management/Port Authorities
- Maritime Security Operations and Training
- Marine Salvage Operations
- Maritime Security Related Academics/Public Policy
- Marine Facilities and Terminals Security Management
- Vessel Owners/Operators
- Maritime Labor
- International and Inter-modal Supply Chain
- Maritime Hazardous Materials Handling/Shipping
- State and Local Government (Homeland Security, Law Enforcement, First Response)

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Members of NMSAC will be appointed and serve as Special Government Employees (SGE) as defined in section 202(a) of title 18

United States Code and are not industry representatives. As candidates for appointment as SGEs, applicants are required to complete Confidential Financial Disclosure Reports (OGE Form 450). DHS may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Applicants can obtain this form by going to the website of the Office of Government Ethics (*http://www.oge.gov*), or by contacting the individual listed above. Applications which are not accompanied by a completed OGE Form 450 will not be considered.

Dated: May 4, 2007.

Mark P. O'Malley,

Captain, U.S. Coast Guard, Office of Port and Facility Activities.

[FR Doc. E7–9244 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–15–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 new information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the FEMA Public Assistance (PA) Program Evaluation and Customer Satisfaction Survey results to measure program performance.

SUPPLEMENTARY INFORMATION: Executive Order 12862 requires that all Federal agencies survey their customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The Government Performance and Results Act (GPRA) requires agencies to set missions and goals, and measure performance against them. FEMA will fulfill these requirements by collecting customer satisfaction with service and program evaluation information through administration of surveys of the Disaster Assistance Directorate (DAD) external customers.

Collection of Information

Title: FEMA PA Program Evaluation and Customer Satisfaction Survey.

Type of Information Collection: New.

OMB Number: 1660–NW32.

Form Number: FF 90–152.

Abstract: The purpose of the FEMA PA Program Evaluation and Customer Satisfaction Survey is to measure program performance against standards for performance and customer service, measure achievement of GPRA objectivities and generally gauge and make improvements to disaster services that increase customer satisfaction and program effectiveness.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; and State, local or tribal governments.

Estimated Total Annual Time Burden: 1,920 hours.

ANNUAL TIME BURDEN

Project/activity (survey, form(s), focus group, worksheet, etc.)	Number of respondents (A)	Frequency of responses (B)	Hour burden per response (hours) (C)	Annual responses (D) = (A×B)	Total annual hour burden (hours) (E) = (C×D)
PA Survey	3,200	1	0.3	3,200	960
PA Focus Groups	80	1	12.0	80	960
Total	3,280			3,280	1,920

Estimated Cost: There is no expected cost to the respondents.

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 July 16, 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 Marie O. Randle, Emergency Management Specialist, DAD–PCP, 202–646–3649 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 email address: *FEMA-Information-Collections@dhs.gov*.

Dated: May 3, 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. E7–9265 Filed 5–14–07; 8:45 am]

BILLING CODE 9110–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1693–DR]

Maine; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maine (FEMA–1693–DR), dated April 25, 2007, and related determinations.

EFFECTIVE DATE: April 23, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 23, 2007.

(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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–9258 Filed 5–14–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1695–DR]

New Hampshire; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire (FEMA–1695–DR), dated April 27, 2007, and related determinations.

DATES: *Effective Date:* April 23, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 23, 2007.

(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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–9259 Filed 5–14–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1692–DR]

New York; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–1692–DR), dated April 24, 2007, and related determinations.

DATES: *Effective Date:* May 3, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the Public Assistance program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 24, 2007:

Orange, Rockland, and Westchester Counties for Public Assistance (already designated for Individual Assistance.)

Albany, Columbia, Dutchess, Essex, Greene, Putnam, Schoharie, Suffolk, and Ulster Counties for Public Assistance.

Albany, Dutchess, and Richmond Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–9257 Filed 5–14–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1697–DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1697–DR), dated May 1, 2007, and related determinations.

DATES: *Effective Date:* May 1, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 1, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and tornadoes during the period of April 21–24, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Texas.

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 assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program and Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Tony Russell, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

Maverick, Moore, and Swisher Counties for Individual Assistance.

Maverick, Moore, and Swisher Counties for Public Assistance Category B (emergency protective measures), limited to direct Federal assistance.

All counties within the State of Texas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–9256 Filed 5–14–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1696–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1696–DR), dated May 1, 2007, and related determinations.

Effective Date: May 1, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 1, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms, flooding, landslides, and mudslides during the period of April 14–18, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of West Virginia to have been affected adversely by this declared major disaster:

Boone, Cabell, Lincoln, Logan, Mingo, Wayne, and Wyoming Counties for Public Assistance.

All counties within the State of West Virginia are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–9255 Filed 5–14–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection under Review: Form N–426, Request for Certification of Military or Naval Service; OMB Control No. 1615–0053.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 9, 2007, at 72 FR 10780, allowing for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 14, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail, please make sure to add OMB Control Number 1615–0053 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the 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 submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–426. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form will be used by USCIS to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the U.S. armed forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 45,000 responses at 45 minutes (.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 33,750 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529; Telephone 202–272–8377.

Dated: May 9, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–9245 Filed 5–14–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection under Review: Form N–300, Application to File Declaration of Intention; OMB Control No. 1615–0078.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 9, 2007, at 72 FR 10780 allowing for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 14, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0078 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the 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 submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to File Declaration of Intention.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–300. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form will be used by permanent residents to file a declaration of intention to become a citizen of the United States. This collection is also used to satisfy documentary requirements for those seeking to work in certain occupations or professions, or to obtain various licenses.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 433 responses at 45 minutes (.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 325 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529; Telephone 202–272–8377.

Dated: May 9, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–9247 Filed 5–14–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Statement of Findings: Snake River Water Rights Act of 2004

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Statement of Findings in accordance with Public Law 108–447.

SUMMARY: The Secretary of the Interior is causing this notice to be published as required by section 10(a)(5) of the Snake River Water Rights Act of 2004 (Settlement Act), Public Law 108–447, Division J, Title X, 118 Stat. 3431, 3438–39. The publication of this notice causes the waivers and releases of certain claims to become effective as required by the Settlement Act.

EFFECTIVE DATE: In accordance with section 10(a)(5) of the Settlement Act, the waivers and releases of claims described in section 10(a) of the Settlement Act are effective on May 15, 2007.

FOR FURTHER INFORMATION CONTACT: Address all comments and requests for additional information to Duane Mecham, Chair, Nez Perce Water Rights Settlement Federal Implementation Team, Office of the Regional Solicitor, Department of the Interior, 500 NE Multnomah Street, Suite 607, Portland, OR 97232. (503) 231–6299.

SUPPLEMENTARY INFORMATION: On April 20, 2004, the United States, State of Idaho (State), and Nez Perce Tribe (Tribe) submitted a document entitled Mediator's Term Sheet (Agreement) to the Snake River Basin Adjudication Court (SRBA Court) in SRBA Consolidated Subcase 03–10022 and SRBA Consolidated Subcase 67–13701.

The Agreement established the basis to resolve all of the Tribe's on-reservation and fisheries water right claims in the Snake River basin in Idaho. It also provided innovative and collaborative solutions for providing additional and protected flows for Snake River salmon runs protected under the Endangered Species Act without disrupting other uses for the water. Finally, the Agreement forged an increased role for the Tribe in the management of its water and other natural resources. On December 8, 2004, the Settlement Act was enacted into law to implement the Agreement.

Section 10(a)(5) of the Settlement Act required, in order to make effective certain waivers and releases of claims, that the Secretary publish in the **Federal Register** a statement of findings that the actions set forth in section IV.L of the Agreement: (A) Have been completed, including issuance of a judgment and decree by the SRBA Court from which no further appeal may be taken; and (B) have been determined by the United States on behalf of the Tribe and the allottees, the Tribe, and the State to be consistent in all material aspects with the Agreement. Section IV.L of the Agreement required: (1) Execution of all documents that comprise the settlement agreement; (2) Congressional approval and authorization of all Federal expenditures; (3) State legislative approval and enactment of all required State legislation; (4) Tribal approval; (5) SRBA Court entry of judgment and decree incorporating the agreement; and (6) issuance of biological opinions anticipated by the upper Snake component of the Agreement.

Statement of Findings

As required by section 10(a)(5)(A) of the Settlement Act and as required by section IV.L of the Agreement, I find on behalf of the Secretary as follows:

1. The parties executed all necessary component documents that make up the settlement agreement as required in section IV.L of the Agreement.

2. As part of Public Law 108–447, Congress approved the Agreement and authorized all Federal expenditures required by the Agreement.

3. Pursuant to Idaho House of Representatives Bills 152, 153, 154 and 399, 2005 Idaho Session Laws chapters 148–150 and 400, the State's legislature enacted the required State legislation and approved the Agreement.

4. By adoption of Resolution No. 05–210, the Nez Perce Tribal Executive Committee approved the Agreement for the Tribe.

5. On January 30, 2007, the SRBA Court issued a Consent Decree and Final Partial Decrees, including springs and fountains partial decrees, negotiated agreements regarding on-reservation claims, and in-stream flows to the Idaho Water Resources Board, and no further appeal may be taken.

6. The National Marine Fisheries Service and the U.S. Fish & Wildlife Service have issued the biological opinions anticipated by the upper Snake component of the Agreement.

As required by section 10(a)(5)(B) of the Settlement Act, I find on behalf of the Secretary as follows:

a. The United States on behalf of the Tribe and the allottees has determined that all actions required in section IV.L of the Agreement have been completed consistent in all material aspects with the Agreement.

b. The Governor of Idaho, by Proclamation signed pursuant to Idaho House of Representatives Bill 152, Section 4, in 2005 Idaho Session Laws, Chapter 148, has certified and determined that all actions required in section IV.L of the Agreement have been completed consistent in all material aspects with the Agreement.

c. The Chairman and Secretary of the Nez Perce Tribal Executive Committee, pursuant to the Nez Perce Tribal Executive Committee Resolution No. 05–210, has provided written certification to the Nez Perce Tribal Executive Committee and has determined that all actions required in section IV.L of the Agreement have been completed consistent in all material aspects with the Agreement.

Dated: April 29, 2007.

Carl J. Artman,

Assistant Secretary of Indian Affairs.

[FR Doc. E7–9332 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bowdoin National Wildlife Refuge Complex, Malta, MT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, we) intend to gather information necessary to prepare a comprehensive conservation plan (CCP) and associated environmental documents for Bowdoin National Wildlife Refuge (NWR) Complex (Complex) in Malta, Montana. This Complex includes the Bowdoin, Black Coulee, Creedman Coulee, Hewitt Lake,

and Lake Thibadeau NWRs. It also includes the Wetland Management District (WMD) comprised of seven waterfowl production areas and thousands of acres of wetland, grassland, and conservation easements on private lands. We furnish this notice in compliance with our CCP policy to advise other agencies and the public of our intentions, and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: To ensure consideration, we must receive your written comments by June 14, 2007.

ADDRESSES: Send your comments or requests for more information to Laura King, Planning Team Leader, Tewaukon NWR, Division of Refuge Planning, 9754 143½ Avenue, SE., Cayuga, North Dakota 58013–9764.

FOR FURTHER INFORMATION CONTACT: Laura King, 701–724–3598, or John Esperance, 303–236–4369.

SUPPLEMENTARY INFORMATION: With this notice, the Service initiates a CCP for the Bowdoin NWR Complex in Malta, Montana.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires the Service to develop a CCP for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

The Service established each unit of the National Wildlife Refuge System, including those for the Complex with specific purposes. We use these purposes to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission, and to guide which public uses will occur on these NWRs. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each NWR and the mission of the National Wildlife Refuge System.

The Service will conduct a comprehensive conservation planning process that will provide opportunity for Tribal, State, and local governments; agencies; organizations; and the public to participate in issue scoping and public comment. We request input for issues, concerns, ideas, and suggestions for the future management of these NWRs and the WMD in Montana. We invite anyone interested to respond to the following two questions.

(1) What problems or issues do you want to see addressed in the CCP?

(2) What improvements would you recommend for these five NWRs and one WMD?

We have provided the above questions for your optional use; you are not required to provide information to us. The planning team developed these questions to gather information about individual issues and ideas concerning these NWRs and the WMD. Our planning team will use the comments it receives as part of the planning process; however, we will not reference individual comments in our reports or directly respond to them.

We will also give the public an opportunity to provide input at an open house to scope issues and concerns. You can obtain the schedule from the planning team leader (see **ADDRESSES**). You may also submit comments anytime during the planning process by writing to the above address. All information provided voluntarily by mail, phone, or at public meetings becomes part of our official public record (i.e., names, addresses, letters of comment, input recorded during meetings). If a private citizen or organization requests this information under the Freedom of Information Act, we may provide informational copies.

The Service will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those regulations. All comments we receive from individuals on our environmental assessments and environmental impact statements become part of the official public record. We will handle requests for such comments in accordance with the Freedom of Information Act, NEPA (40 CFR 1506.6(f)), and other Departmental and Service policies and procedures.

Bowdoin NWR Complex

This Complex encompasses 75,521 acres, of which 49,260 acres are designated as easements. The Complex lies in the short and mixed-grass prairie region of north-central Montana and has both saline and freshwater wetlands which provide habitat for thousands of migrating waterfowl and shorebirds, including the endangered piping plover. Each refuge has various establishing purposes. Bowdoin NWR was established: (1) ''* * * as a refuge and breeding ground for migratory birds and other wildlife.''; (2) ''* * * and that such part of said lands as the Secretary of Agriculture may deem proper be reserved for use as a shooting area to be operated under a cooperative agreement or lease with the Montana State Game Commission or such other operating agency as may be approved.''; (3) ''The reservation of these lands as a migratory waterfowl refuge is subject to the use thereof by [the Department of Interior] for irrigation and other incidental purposes * * *'' and (4) ''* * * for any other management purpose, for migratory birds.'' Black Coulee, Creedman Coulee, and Lake Thibadeau NWRs were established for: (1) ''* * * water conservation, drought relief, and migratory bird and wildlife conservation purposes * * * wildlife conservation demonstration unit and closed refuge * * *''; and (2) ''* * * as a refuge and breeding ground for migratory birds and other wildlife * * *''; and Hewitt Lake NWR was established for: (1) ''* * * water conservation, drought relief, stock water, and migratory waterfowl and wildlife conservation purposes * * * and maintain a closed refuge * * * wildlife conservation demonstration unit and closed refuge * * *''; (2) ''* * * water conservation, drought relief, and migratory bird and wildlife conservation purposes * * * wildlife conservation demonstration unit and closed refuge * * *''; (3) ''* * * as a refuge and breeding ground for migratory birds and other wildlife * * * nothing herein shall affect the disposition of the oil and gas deposits therein * * *''; (4) ''* * * purposes of land-conservation and land utilization program * * *''; (5) ''* * * for use and administration under applicable laws as refuges for migratory and other wildlife.'' Bowdoin WMD was established: (1) ''as Waterfowl Production Areas subject to * * * all of the provisions of such Act [Migratory Bird Conservation Act] * * * except the inviolate sanctuary provisions * * *'';

and (2) ''* * * for any other management purpose, for migratory birds.''

Dated: March 30, 2007.

Elliott Sutta,

Acting Regional Director, Region 6, Denver, Colorado.

[FR Doc. E7–9280 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Kanuti National Wildlife Refuge, Alaska

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of the Draft Revised Comprehensive Conservation Plan and Environmental Assessment for Kanuti National Wildlife Refuge; request for comments; announcement of public meetings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, we) announce that the Draft Revised Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for the Kanuti National Wildlife Refuge is available for public comment. We prepared this CCP pursuant to the Alaska National Interests Land Conservation Act of 1980 (ANILCA), the National Wildlife Refuge System Administration Act of 1966 (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Refuge Improvement Act), and the National Environmental Policy Act of 1969 (NEPA). In this plan, we describe how the Service proposes to manage this refuge over the next 15 years.

DATES: We must receive your comments on or before July 16, 2007.

ADDRESSES: To provide written comments or to request a paper copy or compact disk of the Draft CCP/EA, contact: Peter Wikoff, Planning Team Leader, U.S. Fish and Wildlife Service, 1011 East Tudor Rd., MS. 231, Anchorage, Alaska 99503, or at *fw7_kanuti_planning@fws.gov,* or at 907–786–3837. You may view or download a copy of the Draft CCP/EA at: *http://www.r7.fws.gov/nwr/planning/plans.htm.* Copies of the Draft CCP/EA may be viewed at the Kanuti Refuge Office in Fairbanks, Alaska; at local libraries; and at the U.S. Fish and Wildlife Service Regional Office in Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Peter Wikoff at the above address.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966, as amended by the Refuge Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*), requires each refuge to develop and implement a CCP. The purpose of developing CCPs is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife science, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, the CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update these CCPs at least every 15 years. The original CCP for the Kanuti Refuge was approved in 1987. After reviewing that plan, we decided to revise it to comply with current policies and to provide more complete management direction.

Background: The Kanuti National Wildlife Refuge was established on December 2, 1980 by ANILCA. The purposes for which the Kanuti National Wildlife Refuge was established include:

1. To conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, white-fronted geese and other waterfowl and migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), and furbearers;

2. to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

3. to provide, in a manner consistent with the purposes set forth in 1 and 2 above, the opportunity for continued subsistence uses by local residents; and

4. to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in 1 above, water quality and necessary water quantity within the refuge.

The refuge is roadless and lies on the Arctic Circle about 150 miles northwest of Fairbanks. It is situated in a broad basin formed by the Koyukuk and Kanuti rivers between the Brooks Range and the Ray Mountains. The Dalton Highway and Alyeska pipeline lie within eight miles of its eastern boundary. The refuge consists of nearly 1.3 million acres of Federal lands within an external boundary that encompasses approximately 1.6 million acres of Federal, State, and private lands. The landscape consists primarily of rolling hills, wetlands, ponds, and streams. Elevations range from 500 feet to over 3,000 feet. The major natural resources are wildlife, fisheries, and their associated habitats.

Issues and Alternatives: Conservation of the natural, unaltered character of the refuge: During scoping, many people expressed a desire that the refuge remain in a natural, wild state. They wanted minimal intrusion on natural systems and for the refuge to remain wild for the future. This was true for people from both urban and rural backgrounds. The Kanuti Refuge is one of the few refuges in Alaska that is both roadless and without permanent villages or towns. These characteristics help to maintain the natural wild state with minimal intrusion that people expressed a desire for during the scoping process. Acceptance and integration of new management policies and guidelines for refuges in Alaska into the plan: Management of refuges in Alaska is governed by Federal law including ANILCA and the Refuge Administration Act as amended by the Refuge Improvement Act, by regulations implementing these laws, by intergovernmental treaties, by Service policies, and by principles of sound resource management, all of which establish standards for resource management or limit the range of potential activities that may be allowed on refuges. Management policies and guidelines, described in the plan, were developed as part of the region-wide refuge comprehensive planning effort and provide direction for National Wildlife Refuges in the Alaska Region of the U.S. Fish and Wildlife Service. These policies and guidelines would be applied to the Kanuti National Wildlife Refuge. Management categories (wilderness, wild rivers, minimal, moderate, and intensive) are used to describe management levels throughout the refuges in Alaska. A management category is a set of refuge management directions applied to an area, in light of its resources and existing and potential uses, to facilitate management and the accomplishment of refuge purposes and goals. Two management categories, moderate and minimal, apply to the Kanuti Refuge.

Three alternatives for management of the refuge are evaluated in the EA.

Alternative A (the no-action alternative) is required by NEPA, describes what would happen under continuation of current management activities, and serves as a baseline against which to compare other alternatives. Under this alternative, management of the refuge would

continue to follow the current course of action. Private and commercial uses of the refuge would be likely unchanged. Currently 33 percent of the refuge is in Moderate Management and 67 percent of the Refuge is in Minimal Management.

When the original plan was developed in 1987 two areas of Moderate Management were delineated, roughly corresponding to two major river drainages within the refuge. This was to allow more intensive habitat management activities to occur (e.g. water level management and mechanical manipulation of habitat). Though originally thought to be important to enhance the abundance of subsistence resources, subsequent studies showed that this level of manipulation was not needed. That aspect of the plan was never implemented.

Alternative A would continue to protect and maintain the existing wildlife values, natural diversity, and ecological integrity of the refuge. Human disturbances to fish and wildlife habitats and populations would be minimal except, potentially, in Moderate Management areas. Public uses of the refuge employing existing access methods would continue to be allowed. Opportunities to pursue traditional subsistence activities, and recreational hunting, fishing, and other wildlife-dependent activities, would be maintained. Opportunities to pursue research would be maintained.

Alternative B would convert all refuge lands now in Moderate Management to Minimal Management and incorporate the new policies and guidelines for refuges in Alaska. Management of the refuge would generally continue to follow the current course of action but would adopt a vision statement and set of goals developed in response to public scoping, that would implement low impact management.

Alternative B was designed to maintain the natural, unaltered character and ecological integrity of the refuge with little evidence of human-caused change. Disturbance to resources as a result of public uses, economic activities, and facilities would be minimized. Habitats would be allowed to change and function through natural processes. Because activities that could have been allowed under Moderate Management in the 1987 Plan were never implemented, the public would see little or no change under Alternative B despite the removal of areas from the Moderate Management category.

Alternative C (the preferred alternative) would convert a portion of the refuge lands now in Moderate Management, in the center of the refuge, to Minimal Management and would incorporate the new policies and guidelines for refuges in Alaska. With this change, 85 percent of the refuge would be in Minimal Management and 15 percent of the refuge would remain in Moderate Management. The areas remaining in Moderate Management are adjacent to private lands near the Koyukuk River in the northwestern portion of the refuge. Management activities would generally continue as with Alternative A.

Lands in Minimal Management would be managed to maintain their natural unaltered character and ecological integrity with little evidence of human-caused change. Moderate Management could allow some small-scale changes in the environment that do not disrupt natural processes. Though there may be signs of human activity, the natural landscape would remain the dominant feature. Moderate Management would allow more habitat manipulation than would Minimal Management, and permanent facilities may be constructed. It was anticipated that this flexibility may be needed due to the proximity of these areas to private lands, the river, and overland transportation routes.

Public availability of comments: Before including your name, 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.

Dated: May 8, 2007.

Thomas O. Melius,

Regional Director, U.S. Fish and Wildlife Service, Anchorage, Alaska.

[FR Doc. E7–9281 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Lake Andes National Wildlife Refuge Complex, South Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a comprehensive conservation plan (CCP) and associated environmental documents for the Lake Andes National Wildlife Refuge Complex (Complex), South Dakota.

The Service is furnishing this notice in compliance with Service CCP policy to advise other agencies and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by June 14, 2007.

ADDRESSES: Comments and requests for more information regarding the Complex should be sent to Bernardo Garza, Planning Team Leader, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Bernardo Garza, 303–236–4377, or John F. Esperance, 303–236–4369.

SUPPLEMENTARY INFORMATION: The Service has initiated the CCP for the Complex with headquarters in Lake Andes, South Dakota.

Each unit of the National Wildlife Refuge System, including this Complex, has specific purposes for which it was established. Those purposes are used to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission and to guide which public uses will occur on the Complex. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each national wildlife refuge and wetland management district's establishing purposes and the mission of the National Wildlife Refuge System.

The Complex is made up of three separate entities: Lake Andes National Wildlife Refuge (NWR), Lake Andes Wetland Management District (WMD), and Karl E. Mundt NWR. Lake Andes NWR was established in 1936 to preserve an important piece of habitat for waterfowl and other water birds. The Lake Andes WMD was formed in the 1960s to protect wetland and grassland habitat that is critical to our nation's duck population. In 1967, the Service identified an area that was supporting almost 300 endangered bald eagles each winter; this area became the Karl E. Mundt NWR. Hunting and wildlife observation are the two most prevalent public uses on the Complex.

The Service will conduct a comprehensive conservation planning process that will provide opportunity for Tribal, State, and local governments; agencies; organizations; and the public to participate in issue scoping and public comment. The Service is requesting input for issues, concerns, ideas, and suggestions for the future management of the Complex. Anyone interested in providing input is invited to respond to the following questions.

(1) What problems or issues do you want to see addressed in the CCP?

(2) What improvements would you recommend for the Complex?

The Service has provided the above questions for your optional use; you are not required to provide information to the Service. The planning team developed these questions to facilitate finding out more information about individual issues and ideas concerning these three units of the National Wildlife Refuge System. Comments received by the planning team will be used as part of the planning process; individual comments will not be referenced in our reports or responded to directly.

An opportunity will be given to the public to provide input at open houses to scope issues and concerns (schedules can be obtained from the planning team leader at the above address). Comments may also be submitted anytime during the planning process by writing to the above address. All information provided voluntarily by mail, phone, or at public meetings becomes part of the official public record (i.e., names, addresses, letters of comment, input recorded during meetings). If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide informational copies.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and Service policies and procedures for compliance with those regulations. All comments received from individuals on Service Environmental Assessments and Environmental Impact Statements become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, NEPA (40 CFR 1506.6(f)), and other Departmental and Service policies and procedures.

Dated: September 19, 2006.

James J. Slack,

Deputy Regional Director, Region 6, Denver, Colorado.

Editorial Note: This document was received at the Office of the Federal Register on May 10, 2007.

[FR Doc. E7–9278 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Yukon Delta National Wildlife Refuge, Alaska

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of intent to revise the comprehensive conservation plan and prepare an environmental impact statement for Yukon Delta National Wildlife Refuge.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, we), will be developing a revised Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) for Yukon Delta National Wildlife Refuge (Refuge). We will use local announcements, special mailings, newspaper articles, the Internet, and other media announcements to inform people of opportunities to provide input throughout the planning process. We will hold public meetings in communities within the Refuge during preparation of the revised plan. We will visit each of the 36 occupied communities within the Refuge boundary as we revise this plan.

DATES: Please provide written comments on the scope of the CCP revision by January 31, 2008.

ADDRESSES: Address comments, questions, and requests for further information to: Peter Wikoff, Planning Team Leader, Division of Conservation Planning and Policy, 1011 East Tudor Rd., MS–231, Anchorage, AK 99503. Comments may be faxed to (907) 786–3965, or sent via electronic mail to *YukonDelta_planning@fws.gov.* Additional information about the Refuge is available on the Internet at: *http://alaska.fws.gov/nwr/planning/ydpol.htm.*

FOR FUTHER INFORMATION CONTACT: Peter Wikoff, Planning Team Leader, phone (907) 786–3837 or Mikel Haase, Planning Team Leader, phone (907) 786–3402.

SUPPLEMENTARY INFORMATION: Established by the Alaska National Interest Lands Conservation Act (94 Stat. 2371) in 1980 (ANILCA), Yukon Delta National Wildlife Refuge is the second largest Refuge in the National Wildlife Refuge System. Stretching east for 300 miles from Nunivak Island in the Bering Sea to the village of Aniak, the Refuge spans more than 19 million acres. The two largest rivers in Alaska, the Yukon and the Kuskokwim, flow through the Refuge creating a delta which covers about 70% of the Refuge. This broad, flat area is less than 100 feet in elevation and covered by countless lakes and ponds. Flooding is common along rivers and lowlands. Wetlands, lakes, ponds, streams, inlets, bays, and coastal areas support an extremely varied community of fish and wildlife including one of the largest aggregations of water birds in North America. Each year over one million ducks, half a million geese and millions of shorebirds use the Refuge for both breeding and staging. The Refuge is also home to significant salmon fisheries.

Thirty-six occupied communities lie within the Refuge boundaries. Alaskan Native peoples have occupied the region for close to 10,000 years and their lives and culture are intertwined with the Refuge. Local Native corporations own vast tracts of lands within the Refuge.

Refuge purposes include: (1) Conserving fish and wildlife populations and habitats in their natural diversity, including, but not limited to, shorebirds, seabirds, whistling swans, emperor, white-fronted and Canada geese, black brant and other migratory birds, salmon, muskox, and marine mammals; (2) fulfilling international treaty obligations of the United States with respect to fish and wildlife and their habitats; (3) providing, in a manner consistent with purposes (1) and (2) above, the opportunity for continued subsistence use by local residents; and (4) ensuring, to the maximum extent practicable and in a manner consistent with purpose (1) above, water quality and necessary water quantity within the Refuge.

We furnish this notice in accordance with the ANILCA, the National Wildlife Refuge System Administration Act as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S. C. 668dd-688ee), the regulations implementing the National Environmental Policy Act (40 CFR 1500–1508), and Service policies.

These laws and policies require all lands within the National Wildlife Refuge System to be managed in accordance with an approved CCP which articulates a 15 year plan for managing a Refuge and identifies Refuge goals and objectives. During the CCP process, we will consider many

elements, including: (1) Conservation of the Refuge's fish and wildlife populations and habitats in their natural diversity; (2) facilitation of subsistence use by local residents; (3) access for traditional activities; and (4) conservation of resource values, including cultural resources, wilderness, and rivers. The final revised CCP will detail programs, activities, and measures necessary to best administer the Refuge to protect these values and fulfill Refuge purposes over the next 15 years. Until the revised CCP is completed, management will continue to be guided by the original CCP, Federal legislation regarding management of National Wildlife Refuges, and other legal, regulatory, and policy guidance. The original CCP was approved in 1988.

Public Involvement

We plan to hold public involvement activities in communities within the Refuge. We plan to visit every one of the occupied villages within the Refuge at least once during plan revision. With appropriate advance notice, scoping meetings will be held between October 15, 2007, and the end of February 2008, as weather and other conditions permit. We will also be accepting comments via mail, e-mail, telephone, and through personal contacts throughout the planning process.

Public Availability of Comments

Before including your name, 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.

Dated: May 8, 2007.

Thomas O. Melius,

Regional Director, U.S. Fish & Wildlife Service, Anchorage, Alaska.

[FR Doc. E7–9285 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit applications; request for comments.

SUMMARY: The following applicant has applied for a permit to conduct certain activities with endangered species.

DATES: We must receive any written comments on or before June 14, 2007.

ADDRESSES: Regional Director, Attn: Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, MN 55111–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Fasbender, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Endangered Species

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), with some exceptions, prohibits activities affecting endangered species unless authorized by a permit from the Service. Before issuing a permit, we invite public comment on it. Accordingly, we invite public comment on the following applicant's permit application for certain activities with endangered species authorized by section 10(a)(1)(A) of the Act and the regulations governing the taking of endangered species (50 CFR part 17). Submit your written data, comments, or requests for copies of the complete applications to the address shown in **ADDRESSES**.

Permit Number: TE049738

Applicant: Third Rock Consultants, Lexington, Kentucky.

The applicant requests a permit amendment to take listed fish, mussel, and bat species throughout New York, Pennsylvania, Virginia, and West Virginia. The applicant also requests to take the American burying beetle (*Nicrophorus americanus*) throughout the range of the species. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE151107

Applicant: Redwing Ecological Services, Inc., Louisville, Kentucky.

The applicant requests a permit to take the Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), and Virginia big-eared bat (*C. t. virginianus*) throughout the range of the species. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE151109

Applicant: Ohio Division of Wildlife, Columbus, Ohio.

The applicant requests a permit to take the American burying beetle (*Nicrophorus americanus*) for the purpose of establishing captive colonies to be used for release into the wild. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE151117

Applicant: Sarah Bradley, Salem, Missouri.

The applicant requests a permit to take the Indiana bat (*Myotis sodalis*) and gray bat (*M. grisescens*) throughout the Mark Twain National Forest, Missouri. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE152002

Applicant: FMSM Engineers, Inc., Louisville, Kentucky.

The applicant requests a permit to take 5 listed fish species, 23 species of listed mussels, 4 species of listed bats, and 2 listed reptile species throughout 28 states. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE152216

Applicant: Marlin Bowles, The Morton Arboreteum, Lisle, Illinois.

The applicant requests a permit to take Mead's milkweed (Asclepius meadii) throughout Illinois. The scientific research is aimed at enhancement of survival of the species in the wild.

Public Comments

We solicit public review and comment on this permit application. Please refer to the respective permit number when you submit comments. We make all comments we receive, including names and addresses, part of the official administrative record, and may make them available to the public. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that we may be required to disclose your name and address pursuant to the Freedom of Information Act. 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. Comments and materials we receive are available for public inspection, by appointment, during normal business hours at the address shown in the **ADDRESSES** section.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the activities proposed by this permit are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: April 17, 2007.

Lynn Lewis,

Deputy Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. E7–9266 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

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 the application at the address given below, by June 14, 2007.

ADDRESSES: Documents and other information submitted with the 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: Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, HCP Coordinator).

FOR FURTHER INFORMATION CONTACT: David Dell, telephone 404/679–7313; facsimile 404/679–7081.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following application for a permit 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 Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or via electronic mail (e-mail) to *david_dell@fws.gov*. Please include your name and return address in your e-mail message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your e-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 Fish and Wildlife Service office listed above (see **ADDRESSES** section).

Before including your address, telephone number, e-mail address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. 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.

Applicant: Jackson Environmental Consulting Services, LLC, Jeremy Lynn Jackson, Richmond, Kentucky, TE102292–3.

The applicant requests authorization to renew and amend an existing permit authorization to take (capture, identify, release) the gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) while conducting presence/absence surveys in West Virginia, Virginia, Tennessee, North Carolina, Kentucky, Alabama, Arkansas, Illinois, Indiana, Missouri, Ohio, and Pennsylvania.

Dated: April 9, 2007.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E7–9273 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Low-Effect Habitat Conservation Plan for the Bay Checkerspot Butterfly for the Metcalf-El Patio Reconductor and Metcalf-Hicks/Vasona Reconductor, Santa Clara County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: receipt of application; request for comment.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from the Pacific Gas & Electric Company (applicant) for a 3-year incidental take permit for the federally threatened bay checkerspot butterfly (*Euphydryas editha bayensis*) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of the butterfly incidental to proposed reconductoring and conservation management activities at the Metcalf-El Patio 115 kV and Metcalf-Hicks/Vasona 230 kV transmission line site in Santa Clara County, California (plan area). We request comments on the applicant's application and low-effect habitat conservation plan (plan), and on our preliminary determination that the Plan qualifies as a ''low-effect'' habitat conservation plan eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our environmental action statement (EAS), which is also available for review.

DATES: We must receive any written comments on or before June 14, 2007.

ADDRESSES: Please address written comments to Lori Rinek, Chief, Conservation Planning and Recovery Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Eric Tattersall, Chief, Conservation Planning Branch, or Cori Mustin, Senior Biologist, at the Sacramento Fish and Wildlife Office, at (916) 414–6600 (telephone).

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the permit application, plan, and EAS from the individuals named under **FOR FURTHER INFORMATION CONTACT**. Documents will

also be available for public inspection, by appointment, during regular business hours at the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

Public Availability of Comments

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.

Background Information

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing Federal regulations prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the Act to include the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or to attempt to engage in such conduct. However, under section 10(a)(1)(B) of the Act, the Service may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

The applicant seeks a permit for take of one federally listed species, the threatened bay checkerspot butterfly (*Euphydryas editha bayensis*). This species is referred to as the ''covered species'' in the plan. The proposed reconductoring activities would temporarily affect approximately 2.4 acres (ac) of habitat, which comprises approximately 0.0084 percent of the species' designated critical habitat. The applicant would receive ''No Surprises'' assurances for the covered species under our ''No Surprises'' regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Only one species listed under the Act, the bay checkerspot butterfly, has the potential to occur on the project site and to be incidentally taken by the proposed project. Several other sensitive species are located in the vicinity of the plan area, including: (1) California tiger salamander (*Ambystoma californiense*), federally listed as threatened; (2) California red-legged frog (*Rana aurora draytonii*), federally listed as threatened; (3) Santa Clara Valley dudleya (*Dudleya setchellii*), federally listed as endangered; and (4) Metcalf Canyon jewelflower (*Streptanthus albidus albidus*), federally listed as endangered. However, the Service determined that there would be no take of California tiger salamander or California red-legged frog. It was also determined that there would be no project-related effects on Santa Clara Valley dudleya or Metcalf Canyon jewelflower. Therefore, bay checkerspot butterfly is the only covered species in the plan.

The applicant proposes to reconductor two Metcalf transmission lines within the plan area. As discussed in the plan, proposed covered activities include the following: (1) Constructing crossing structures, (2) pulling new conductors, (3) accessing the plan area, (4) staging in the plan area, (5) implementing fire prevention/suppression measures, and (6) implementing a conservation strategy for the bay checkerspot butterfly.

The applicant proposes to avoid and minimize take and associated adverse project impacts to the covered species by fully implementing the plan. The applicant will minimize and mitigate the impacts of taking the bay checkerspot butterfly by implementing the following measures: (1) Conducting construction activities during summer and late fall; (2) ensuring that a qualified biologist is present to monitor and oversee technical issues relative to compliance with the mitigation and conservation measures; (3) restricting work activities to a 50-foot radius area from the center of most towers; (4) documenting serpentine (type of soil) habitat conditions with photographs before and after reconductoring activities; (5) developing and implementing, as appropriate, a re-seeding plan; (6) planning for rain that may occur prior to the completion of the project; (7) ensuring minimal disturbance caused by construction equipment; (8) ensuring that construction personnel receive worker awareness training; (9) ensuring that measures are taken to prevent accidental wildfires; and (10) halting project activities if bay checkerspot larvae or adults are found on site and coordinating with us regarding next steps. The applicant's plan also describes measures and funding sources that ensure that the elements of the plan would be implemented in a timely manner, actions to be taken if unforeseen events occur, and other required elements.

Our proposed action consists of approving the applicant's plan and issuing an incidental take permit for the applicant's project. As required by the Act, the applicant's plan also considers alternatives to the take considered under the proposed action. The plan considers the environmental consequences of one alternative to the proposed action, the No Action alternative. The proposed action alternative consists of issuance of the incidental take permit for the applicant's proposed project, which includes the activities described above. The proposed action alternative would result in temporary impacts to 2.4 ac of serpentine habitat. To mitigate for temporary impacts, the applicant agrees to purchase and conserve at least 1.2 ac of bay checkerspot butterfly habitat at a ratio of 0.5 to 1, of acres permanently protected to acres temporarily affected.

Under the No Action alternative, no permit would be issued, no construction associated with reconductoring activities would occur, and no take would occur. Under this alternative, the applicant would not be able to provide a safe and reliable power supply to its south San Jose service area, which is currently operating close to its maximum load rating. Additionally, an outage on one of the existing circuits could result in power curtailments or outages in the area, which would put the public's health, welfare, and safety at risk and could also result in substantial damage to the applicant's electrical system. No conservation areas would be protected under the No Action alternative.

National Environmental Policy Act

As described in our EAS, we have made the preliminary determination that approval of the proposed plan and issuance of the permit would qualify as a categorical exclusion under NEPA, as provided by Federal regulations (40 CFR 1500, 5(k), 1507.3(b)(2), 1508.4) and the Department of the Interior Manual (516 DM 2 and 516 DM 8). Our EAS found that the proposed plan qualifies as a ''low-effect'' habitat conservation plan, as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Determination of low-effect habitat conservation plans is based on the following three criteria: (1) Implementation of the proposed plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources which would be

considered significant. Based upon the preliminary determinations in the EAS, we do not intend to prepare further NEPA documentation. We will consider public comments when making the final determination on whether to prepare an additional NEPA document on the proposed action.

Public Review

We provide this notice pursuant to section 10(c) of the Act and the NEPA public-involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We will evaluate the permit application, including the plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to the Pacific Gas & Electric Company for incidental take of the bay checkerspot butterfly during Metcalf reconductoring work. We will make the final permit decision no sooner than 30 days after the date of this notice.

Dated: May 9, 2007.

Susan K. Moore,

Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. E7–9277 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–990–07–5101–NH–FLO7]

Notice of Public Meeting of the Federal/State Joint Pipeline Office Executive Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the **Federal Register** requirements to announce meetings the Federal/State Joint Pipeline Office will meet as indicated below.

DATES: The meeting will be held June 13, 2007, at the Alaska State Library Talking Book Center at 344 West 3rd Avenue, Suite 125, in Anchorage, Alaska. The meeting begins at 8:30 a.m.

The council will accept public comment at 1 p.m. Time for individual comments may be limited depending on the number of people wishing to give comment. The council will accept written comments.

FOR FURTHER INFORMATION CONTACT: Rhea DoBosh, Joint Pipeline Office, 411 West 4th Avenue, Suite 2C, Anchorage, Alaska 99501; by phone, 907–257–1338; by fax, 907–257–1397; or by e-mail, *rdobosh@jpo.doi.gov*.

SUPPLEMENTARY INFORMATION: The 12-member Federal/State Executive Council was created in March 1990 to provide full partnership for State and Federal agencies in monitoring of the Trans-Alaska Pipeline System (TAPS). At this meeting, topics to be presented and discussed include:

- History and overview of the Joint Pipeline Office.
- Update on the TAPS Strategic Reconfiguration Project.
- Agency reports.
- Future scope of work.
- Other topics the Council may raise.

All meetings are open to the public. If you plan to comment on an agenda item, please be aware that your entire comment—including your personal identifying information of address, phone number, e-mail address, or other personal identifying information in your comment—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 public may present written comments to the Council.

Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the Joint Pipeline Office so arrangements can be made.

To connect to the meeting via telebridge, dial 1–877–934–3608, then dial code 190500#. When the automated voice instructs you to say your name, say ''Your Name/Office'' then press #.

Dated: May 8, 2007.

Sharon K Wilson,

Acting State Director.

[FR Doc. E7–9284 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, modified, discontinued, or completed since the last publication of this notice on February 27, 2007. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sandra L. Simons, Manager, Contract Services Office, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2902.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939 and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and

conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearing will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Frequently Used in This Document

BCP: Boulder Canyon Project
Reclamation: Bureau of Reclamation
CAP: Central Arizona Project
CVP: Central Valley Project
CRSP: Colorado River Storage Project
FR: Federal Register
IDD: Irrigation and Drainage District
ID: Irrigation District
M&I: Municipal and Industrial
NMISC: New Mexico Interstate Stream Commission
O&M: Operation and Maintenance
P–SMBP: Pick-Sloan Missouri Basin Program
PPR: Present Perfected Right
RRA: Reclamation Reform Act of 1982
SOD: Safety of Dams
USACE: U.S. Army Corps of Engineers
WD: Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New contract actions:

19. Six irrigation water user entities, Rogue River Basin Project, Oregon: Long-term contracts for exchange of water service with six entities for the provision of up to 2,634 acre-feet of stored water from Applegate Reservoir (USACE project) for irrigation use in exchange for the transfer of out-of-stream water rights from the Little Applegate River to instream flow rights with the State of Oregon for instream flow use.

20. Cowiche Creek Water Users Association and Yakima-Tieton ID, Yakima Project, Washington: Warren Act contract to allow the use of excess capacity in Yakima Project facilities to convey up to 1,583.4 acre-feet of nonproject water for the irrigation of approximately 396 acres of nonproject land.

Modified contract action:

16. One irrigation water user entity, Boise Project, Idaho: Long-term renewal and/or conversion of one irrigation water service contract for supplemental irrigation use of up to 1,718 acre-feet of storage space in Lucky Peak Reservoir, a USACE project on the Boise River, Idaho. Seventeen water service contracts have been converted to repayment contracts for a total of 68,500 acre-feet of storage space.

Completed contract action:

8. City of Cle Elum, Yakima Project, Washington: Contract for up to 2,170 acre-feet of water for municipal use. Contract executed on January 25, 2007.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New contract actions:

45. Goleta WD, Cachuma Project, California: Proposed agreement for title transfer of a federally owned distribution system of the Cachuma Project.

Completed contract action:

29. Cachuma Operation and Maintenance Board, Cachuma Project, California: Repayment for SOD work on Lauro Dam. Contract executed on December 21, 2006.

Lower Colorado Region: Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

Completed contract actions:

3. Brooke Water Co., BCP, Arizona: Amend contract for an additional 120 acre-feet per year of Colorado River water for domestic uses, as recommended by the Arizona Department of Water Resources. Contract executed March 16, 2007.

31. City of Needles, BCP, California: Amendment to contract No. 05–XX–30–W0445 to include PPR No. 44 for an annual diversion of 1,260 acre-feet or the annual consumptive use of 273 acre-feet, whichever is less. Contract executed March 16, 2007.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New contract actions:

1.(b) Riverwalk Estates, LLP, Aspinall Storage Unit, CRSP: Riverwalk Estates, LLP has requested a 40-year water service contract for 8 acre-feet of M&I water out of Blue Mesa Reservoir, which requires Riverwalk Estates, LLP to present a Plan of Augmentation to the Division 4 Water Court.

1.(c) Camp Id-Ra-Ha-Je West Association, Aspinall Storage Unit, CRSP: Camp Id-Ra-Ha-Je West Association has requested a 40-year water service contract for 1 acre-foot of M&I water out of Blue Mesa Reservoir, which requires Camp Id-Ra-Ha-Je West Association to present a Plan of Augmentation to the Division 4 Water Court.

30. Weber Basin Water Conservancy District, Weber Basin Project, Utah: Contract providing for the District to repay the United States 15 percent of the cost of SOD modifications to the foundation of Arthur V. Watkins Dam.

31. Warren-Vosburg Ditch Company, Animas-La Plata Project, Colorado and New Mexico: Contract for payment of O&M costs associated with the Warren-Vosburg Ditch.

Discontinued contract action:

29. Strawberry Valley Project, Utah: Contract to allow conversions of project irrigation water to municipal, domestic, and industrial uses.

Completed contract actions:

1.(b) Riverwalk Estates, LLP, Aspinall Storage Unit, CRSP: Riverwalk Estates, LLP has requested a 40-year water service contract for 8 acre-feet of M&I water out of Blue Mesa Reservoir, which requires Riverwalk Estates, LLP to present a Plan of Augmentation to the Division 4 Water Court. Contract executed on March 1, 2007.

9. Pine River ID, Pine River Project, Colorado: Contract to allow the district to use a limited amount of project irrigation water for municipal, domestic, and industrial uses. Contract executed on March 16, 2007.

26. Emery County Project, Utah: The Huntington Cleveland Irrigation Company has requested a contract for carriage of up to 14,074 acre-feet of nonproject water; utilizing Huntington North Reservoir as a regulating feature associated with their Salinity Control Project. Contract executed on February 7, 2007.

28. North Fork Water Conservancy District and Ragged Mountain Water Users Association, Paonia Project, Colorado: North Fork and Ragged Mountain have requested a contract for supplemental water from the Paonia Project. Their contract expired on December 31, 2005, and the amended contract was executed on January 27, 2006. There is a need to amend this contract to include reference to the M&I contract waiting to be executed. Contract executed on January 23, 2007.

Great Plains Region: Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59101, telephone 406–247–7752.

New contract actions:

49. City of Beloit, P–SMBP, Kansas: Contract renewal for M&I contract.

50. Twin Lakes Reservoir and Canal Company, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a long-term contract for the use of excess capacity in the Fryingpan-Arkansas Project.

51. Giant Springs, Inc., Canyon Ferry Unit, P–SMBP, Montana: Request for a long-term contract for up to 5,600 acre-feet of water per year to fulfill the State requirement to replace water used under private rights.

Modified contract action:

12. Savage ID, P–SMBP, Montana: The district is currently seeking title transfer. The contract is subject to renewal pending outcome of the title transfer process. The existing interim contract is due to expire in May 2008.

Discontinued contract actions:

13. City of Fort Collins, Colorado-Big Thompson Project, Colorado: Long-term contracts for conveyance and storage of nonproject M&I water through Colorado-Big Thompson Project facilities.

14. Standing Rock Sioux Tribe, P–SMBP, North Dakota: Negotiate a long-term water service contract with the Standing Rock Sioux Tribe in North Dakota for irrigation of up to 2,380 acres of land within the reservation.

22. Garrison Diversion Unit, P–SMBP, North Dakota: Contracts to provide for project use pumping power or project use pumping power and supplemental irrigation water with various irrigation districts in North Dakota, covering a combined maximum 28,000 acres within the boundaries and limits set by the Dakota Water Resources Act of 2000.

Completed contract actions:

26. Pueblo West Metropolitan District, Pueblo West, Fryingpan-Arkansas Project, Colorado: Consideration of a request for a 5- to 10-year contract for the use of excess capacity in the Fryingpan-Arkansas Project. A 5-year contract was executed on January 1, 2007.

48. City of Beloit, P–SMBP, Kansas: Execution of a contract amendment to the original contract to add a renewal provision in accordance with Section 1 of the Act of June 21, 1963. Contract amendment was executed on February 6, 2007.

Dated: April 9, 2007.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. E7–9275 Filed 5–14–07; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–227]

Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with the eighteenth report covering 2005 and 2006.

DATES: *Effective Date:* April 30, 2007.

FOR FURTHER INFORMATION CONTACT: Walker Pollard (202–205–3228; *walker.pollard@usitc.gov*), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. The media should contact Peg O'Laughlin, Public Affairs Officer (202–205–1819; *margaret.olaughlin@usitc.gov*).

Background: Section 215(a)(1) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)(1)), as amended, requires that the Commission submit biennial reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers, and on beneficiary countries. Section 215(b)(1) requires that the reports include, but not be limited to, an assessment regarding:

(1) The actual effect of CBERA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported from beneficiary countries under the Act; and

(2) The probable future effect of CBERA on the U.S. economy generally and on such domestic industries.

Notice of institution of the investigation was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The eighteenth report, covering calendar years 2005 and 2006, is to be submitted by September 30, 2007.

Written Submissions: The Commission does not plan to hold a public hearing in connection with the preparation of this eighteenth report. However, interested persons are invited to submit written submissions concerning the matters to be addressed in the report. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written submissions relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on June 8, 2007. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information (CBI) must be deleted (see the following paragraph for further information regarding CBI). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain CBI must also conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Section 201.6 of the rules requires that the cover of the document and the individual pages clearly be marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the CBI be clearly identified by means of brackets. All written submissions, except for CBI, will be made available for inspection by interested parties.

The Commission intends to publish only a public report in this investigation. Accordingly, any CBI received by the Commission in this investigation will not be published in a manner that would reveal the operations of the firm supplying the information. The report will be made available to the public on the Commission's Web site.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: May 9, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–9248 Filed 5–14–07; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Committee on Rules of Practice and Procedure.

ACTION: Relocation of open meeting.

SUMMARY: The location of the two-day meeting of the Committee on Rules of Practice and Procedure has been changed from Washington, DC to San Francisco, California. The meeting will be open to public observation but not participation. [Original notice of the meeting appeared in the **Federal Register** of March 7, 2007.]

DATES: June 11–12, 2007.

Time: 8:30 a.m. to 5 p.m.

ADDRESSES: Le Meridien San Francisco, Mercantile Room, 333 Battery Street, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 9, 2007.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 07–2381 Filed 5–14–07; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Operator Response to Schedule for Submission of Additional Evidence (CM–2970) and Operator Response to Notice of Claim (CM–2970A). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 16, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, E-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The Division of Coal Mine Workers' Compensation administers the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*) which provides benefits to coal miners totally disabled due to pneumoniosis, and their surviving dependents. When the Division of Coal Mine Workers' Compensation (DCMWC) makes a preliminary analysis of a claimant's eligibility for benefits, and if a coal mine operator has been identified as potentially liable for payment of those benefits, the responsible operator is notified of the preliminary analysis. Regulations require that a coal mine operator be identified and notified of potential liability as early in the adjudication process as possible. Forms CM–970 and CM–970a are now obsolete and renewal will not be requested in the extension request for information collection 1215–0058. The CM–970 and CM–970a will be replaced by CM–2970 and CM–2970a. Regulatory authority is found in 20 CFR 725.410 for the CM–2970 and 20 CFR 725.408 for the CM–2970A. This information collection is currently approved for use through October 31, 2007.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to administer the Black Lung Benefits Act.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: Operator Response to Schedule for Submission of Additional Evidence (CM–2970), Operator Response to Notice of Claim (CM–2970A).

OMB Number: 1215–0058.

Agency Number: CM–2970 and CM–2970A.

Affected Public: Business or other for-profit.

Respondents: 8,000.

Total Annual responses: 8,000.

Frequency: On occasion.

Form	Number of respondents	Average time per response (minutes)	Burden hours
CM–2970	4,000	10	667
CM–2970A	4,000	15	1,000
Total	8,000		1,667

Estimated Total Burden Hours: 1,667.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $3,360.00.

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

Dated: May 10, 2007.

Hazel Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E7–9291 Filed 5–14–07; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Wage and Hour Division

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby appoint special Industry Committee No. 27 for American Samoa.

2. Pursuant to sections 5, 6(a)(3), and 8 of the FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of the FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the FLSA.

The committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on June 18, 2007, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate prescribed by FLSA section 6(a)(1), as amended.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living, and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, or the Wage and Hour Division Web site (*www.wagehour.dol.gov*). Upon request, the Wage and Hour Division will mail copies to interested persons who make a written request to the Wage and Hour Division. To facilitate mailing, such persons should make advance written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The provisions of Title 29, Code of Federal Regulations, part 511, will govern the procedure of this industry committee. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, the National Office of the Wage and Hour Division, and the Wage and Hour Division Web site at *www.dol.gov/dol/allcfr/ESA/Title_29/Part_511/toc.htm.* The proceedings will be conducted in English, but in the event that a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a pre-hearing statement at the aforementioned

Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each prehearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 30, 2007. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed in Washington, DC this 10th day of May, 2007.

Elaine L. Chao,

Secretary of Labor

[FR Doc. E7–9425 Filed 5–14–07; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until June 14, 2007.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: 12 CFR part 748, Security Program and Appendix B.

OMB Number: 3133–0033.

Form Number: None.

Type of Review: Third party disclosure, and reporting, on occasion.

Description: 12 CFR part 748 requires federally insured credit unions to develop a written security program to safeguard sensitive member information. This information collection requires that such programs be designed to respond to incidents of unauthorized access or use, in order to prevent substantial harm or serious inconvenience to members.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 8,695.

Estimated Burden Hours per Response: 20 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 178,076 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on May 8, 2007.

Mary Rupp,

Secretary of the Board.

[FR Doc. E7–9231 Filed 5–14–07; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on June 5, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, June 5, 2007—10:30 a.m. until 5 p.m.

The Subcommittee will review the Vermont Yankee license renewal application and the associated Safety Evaluation Report (SER) prepared by the NRR staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Entergy Nuclear Operations, Inc., and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Michael Junge (telephone 301/415–6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: May 8, 2007.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E7–9307 Filed 5–14–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Subcommittee Meeting on Thermal-Hydraulic Phenomena; Revised

A portion of the ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena scheduled to be held on May 15–16, 2007, Commissioners' Conference Room O–1G16, 11555 Rockville Pike, Rockville, Maryland, will be closed to discuss vendor proprietary information pursuant to 5 U.S.C. 552b(c)(4). All other items pertaining to this meeting remain the same as published previously in the **Federal Register** on Wednesday, May 2, 2007 (72 FR 24339).

FOR FURTHER INFORMATION CONTACT: Ms. Zena Abdullahi, Designated Federal Official (Telephone: 301–415–2808) between 7:30 a.m. and 4:15 p.m. (ET) or by e-mail *zxa@nrc.gov.*

Dated: May 9, 2007.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E7–9308 Filed 5–14–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 5, 2007, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal

personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, June 5, 2007, 8:30 a.m.–10 a.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: May 8, 2007.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E7–9309 Filed 5–14–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Federal Register Notice

Agency Holding the Meetings: Nuclear Regulatory Commission.

DATES: Weeks of May 14, 21, 28, June 4, 11, 18, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Matters to be Considered

Week of May 14, 2007

Monday, May 14, 2007

12:45 p.m.

Affirmation Session (Public Meeting) (Tentative).

a. Final Rule: Requirements for Expanded Definition of Byproduct Material (RIN: 3150–AH84) (Tentative).

Week of May 21, 2007—Tentative

There are no meetings scheduled for the week of May 21, 2007.

Week of May 28, 2007—Tentative

Tuesday, May 29, 2007

1:30 p.m.

NRC All Hands Meeting (Public Meeting) (Contact: Rickie Seltzer, 301–415–1728), Marriott Bethesda North Hotel, Salons A-E, 5701 Marinelli Road, Rockville, MD 20852.

Wednesday, May 30, 2007

9:30 a.m.

Briefing on Results of the Agency Action Review Meeting (AARM)—Materials (Public Meeting) (Contact: Duane White, 301–415–6272).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

10:15 a.m.

Discussion of Security Issues (Closed—Ex.1).

Thursday, May 31, 2007

9 a.m.

Briefing on Results of the Agency Action Review Meeting (AARM)—Reactors (Public Meeting) (Contact: Mark Tonacci, 301–415–4045).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of June 4, 2007—Tentative

Thursday, June 7, 2007

1:30 p.m.

Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: Frank Gillespie, 301–415–7360).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of June 11, 2007—Tentative

There are no meetings scheduled for the week of June 11, 2007.

Week of June 18, 2007—Tentative

There are no meetings scheduled for the week of June 18, 2007.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: May 10, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–2402 Filed 5–11–07; 12:13 pm]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium for Single-Employer Plans; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in May 2007. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part

4281 apply to valuation dates occurring in June 2007.

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

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Protection Act of 2006, for premium payment years beginning in 2006 or 2007, the required interest rate is the ''applicable percentage'' of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year'').

On February 2, 2007 (at 72 FR 4955), the Internal Revenue Service (IRS) published final regulations containing updated mortality tables for determining current liability under section 412(l)(7) of the Code and section 302(d)(7) of ERISA for plan years beginning on or after January 1, 2007. As a result, in accordance with section 4006(a)(3)(E)(iii)(II) of ERISA, the ''applicable percentage'' to be used in determining the required interest rate for plan years beginning in 2007 is 100 percent.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in May 2007 is 5.98 percent (*i.e.*, 100 percent of the 5.98 percent composite corporate bond rate for April 2007 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between June 2006 and May 2007.

For premium payment years beginning in:	The required interest rate is:
June 2006	5.35
July 2006	5.36
August 2006	5.36
September 2006	5.19
October 2006	5.06
November 2006	5.05
December 2006	4.90
January 2007	5.75
February 2007	5.89
March 2007	5.85
April 2007	5.84
May 2007	5.98

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in June 2007 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 10th day of May 2007.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–9342 Filed 5–14–07; 8:45 am]

BILLING CODE 7709–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27820; 812–13304]

Van Eck Worldwide Insurance Trust, et al.; Notice of Application

May 9, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Investment Company Act of 1940 (''Act'') and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B).

Summary of the Application: The order would permit certain registered open-end management investment companies to acquire shares of other registered open-end management investment companies and unit investment trusts (''UITs'') that are within and outside the same group of investment companies.

Applicants: Van Eck Worldwide Insurance Trust (''WWIT''), Van Eck Funds (''Van Eck Funds'') and Van Eck Funds, Inc. (''Van Eck Funds II'') (together, the ''Investment Companies'') and Van Eck Associates Corporation (''Adviser'').[1]

DATES: *Filing Dates:* The application was filed on June 16, 2006, and amended on May 3, 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 Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 31, 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 issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 100 F Street, NE., Washington, DC 20549–9303. Applicants: Joseph McBrien, Esq., Van Eck Associates Corporation, 99 Park Avenue, New York, New York 10016.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 551–6868, or Nadya B. Roytblat, Assistant Director, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. WWIT is a Massachusetts business trust and is registered under the Act as an open-end management investment company. WWIT currently consists of five Funds, each with its own investment objective and policies. Shares of each WWIT Fund are currently offered and sold through

[1] All entities that currently intend to rely on the requested order are named as applicants and any other entity that relies on the order in the future will comply with the terms and conditions of the application. Applicants request that the relief also apply to any other existing or future registered open-end management investment company that is part of the same group of investment companies, as defined in section 12(d)(1)(G) of the Act, as the Investment Companies (included in the term ''Investment Companies''). Each series of an Investment Company is referred to as ''Fund'' and collectively as ''Funds.''

registered separate accounts of insurance companies that are not affiliates of the Adviser (''Registered Separate Accounts'') and unregistered separate accounts that are not affiliates of the Adviser (''Unregistered Separate Accounts,'' and together with the Registered Separate Accounts, the ''Separate Accounts'').

2. Van Eck Funds is a Massachusetts business trust and is registered under the Act as an open-end management investment company. Van Eck Funds currently consists of three Funds, each with its own investment objective and policies. The shares of these Funds are offered and sold to retail and institutional investors and are not offered through Separate Accounts. Van Eck Funds II is a Maryland corporation and is registered under the Act as an open-end management investment company. It currently consists of one Fund, the shares of which are offered and sold to retail and institutional investors and are not offered through Separate Accounts. The Adviser is a Delaware corporation and is registered as an investment adviser under the Investment Advisers Act of 1940. Each investment adviser to a Fund of Funds that meets the definition of section 2(a)(20)(A) of the Act is referred to as a ''Fund of Funds Adviser.'' Any investment adviser to a Fund of Funds that meets the definition of section 2(a)(20)(B) of the Act is referred to as a ''Fund of Funds Sub-Adviser.''

3. Applicants request relief to permit certain Funds (each such Fund, a ''Fund of Funds'') to invest in: (a) other Funds (''Affiliated Underlying Funds''), and (b) registered open-end management investment companies and UITs that are not part of the same ''group of investment companies'' (as defined in section 12(d)(1)(G)(ii) of the Act) as the Investment Companies (''Unaffiliated Underlying Funds,'' and together with the Affiliated Underlying Funds, the ''Underlying Funds''). The Unaffiliated Underlying Funds may include UITs (''Unaffiliated Trusts'') and open-end management investment companies registered under the Act (''Unaffiliated Funds''). Certain of the Unaffiliated Underlying Funds may have received exemptive relief to sell their shares on a national securities exchange at negotiated prices (''ETFs''). Each Fund of Funds may also make direct investments in other securities. Applicants state that each Fund of Funds will enable investors to create a comprehensive asset allocation program with just one investment and provide a simple, convenient and cost-efficient program for investors who are able to identify their investment goals and risk tolerances but may not be comfortable deciding how to invest their assets to achieve those goals.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any broker or dealer from selling the shares of the investment company to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) to permit the Funds of Funds to acquire shares of Underlying Funds and to permit the Underlying Funds, their principal underwriters and any broker or dealer to sell shares to the Funds of Funds beyond the limits set forth in sections 12(d)(1)(A) and (B) of the Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants state that the proposed arrangement will not result in undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds. To limit the control that a Fund of Funds, and its affiliates, may have over an Unaffiliated Underlying Fund, applicants submit that: (a)(i) Each Fund of Funds Adviser, (ii) any person controlling, controlled by or under common control with the Fund of Funds Adviser, (iii) any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act advised or sponsored by the Fund of Funds Adviser or any person controlling, controlled by or under common control with the Fund of Funds Adviser (collectively, the ''Group''), and (b)(i) any Fund of Funds Subadviser, (ii) any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and (iii) any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (collectively, the ''Sub-Adviser Group'') will not control (individually or in the aggregate) an Unaffiliated Underlying Fund within the meaning of section 2(a)(9) of the Act.

5. Applicants also propose to prevent a Fund of Funds and its affiliated entities from taking advantage of an Unaffiliated Underlying Fund with respect to transactions between the entities by precluding a Fund of Funds and its Fund of Fund Adviser, Fund of Funds Sub-Adviser, promoter, principal underwriter and any person controlling, controlled by or under common control with any of these entities (each, a ''Fund of Funds Affiliate'') from causing any existing or potential investment by the Fund of Funds in an Unaffiliated Underlying Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Underlying Fund or its investment adviser(s), sponsor, promoter, principal underwriter and any person controlling, controlled by or under common control with any of these entities (each, an ''Unaffiliated Fund Affiliate''). Condition 5 precludes a Fund of Funds and Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Fund or sponsor to an Unaffiliated Trust) from causing an Unaffiliated Underlying Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an officer, director, member of an advisory board, Adviser, Sub-Adviser, or employee of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Adviser, Sub-Adviser, or

employee is an affiliated person (each, an ''Underwriting Affiliate,'' except any person whose relationship to the Unaffiliated Underlying Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate). An offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is an ''Affiliated Underwriting.''

6. As an additional assurance that an Unaffiliated Fund understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in an Unaffiliated Fund in excess of the limit in section 12(d)(1)(A)(i), condition 8 requires that the Fund of Funds and the Unaffiliated Fund execute an agreement stating, without limitation, that their boards of directors or trustees and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). Applicants note that an Unaffiliated Underlying Fund (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain the right to reject an investment by a Fund of Funds.[2]

7. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. With respect to investment advisory fees, applicants state that, prior to approval of any investment advisory contract under section 15 of the Act, the board of directors or trustees of each Fund of Funds (''Board''), including a majority of the directors or trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Disinterested Trustees''), will find that the investment advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Affiliated Underlying Fund's or

Unaffiliated Fund's advisory contract(s). Applicants further state that each Fund of Funds Adviser will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Fund under rule 12b–1 under the Act) received by the Fund of Funds Adviser or an affiliated person of the Fund of Funds Adviser from an Unaffiliated Underlying Fund, other than any advisory fees paid to the Fund of Funds Adviser or its affiliated person by an Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Underlying Fund.

8. Applicants state that the proposed arrangement will not create an overly complex fund structure. Applicants note that an Underlying Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A), except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions. Applicants also represent that a Fund of Funds' prospectus and sales literature will contain concise, ''plain English'' disclosure designed to inform investors of the unique characteristics of the proposed Fund of Funds structure, including, but not limited to, its expense structure and the additional expenses of investing in Underlying Funds. Each Fund of Fund will comply with the disclosure requirements concerning the cost of investing in Underlying Funds as set forth in Investment Company Act Release No. 27399.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Underlying Funds might be deemed to be under common control of the Adviser and therefore affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Funds might be deemed to be affiliated persons of one another if a Fund of Funds acquires 5% or more of an Underlying Fund's outstanding voting securities. In light of these possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person, security or transactions or any class or classes of persons, securities or transactions, from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed structure satisfies the standards for relief under sections 17(b) and 6(c) of the Act.[3] Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of each Underlying Fund.[4] Applicants state that the proposed investment will be consistent with the policies of each Fund of Funds and

[2] An Unaffiliated Fund, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement.

[3] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds is subject to section 17(e) of the Act. The Participation Agreement also will include this acknowledgement.

[4] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions at market prices rather than through principal transactions with the Underlying Fund at net asset value. Applicants would not rely on the requested relief from section 17(a) for such secondary market transactions. A Fund of Funds that owns more than 5% of the outstanding voting securities of an ETF could seek to transact in ''Creation Units'' directly with the ETF pursuant to the requested Section 17(a) relief.

Underlying Fund, and with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Underlying Fund within the meaning of section 2(a)(9) of the Act. The members of the Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Underlying Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Underlying Fund, the Group or the Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of the Unaffiliated Underlying Fund, then the Group or the Sub-Advisor Group (except for any member of the Group or the Sub-Adviser Group that is a Separate Account) will vote its shares of the Unaffiliated Underlying Fund in the same proportion as the vote of all other holders of the Unaffiliated Underlying Fund's shares. This condition will not apply to the Sub-Adviser Group with respect to an Unaffiliated Underlying Fund for which the Sub-Adviser or a person controlling, controlled by, or under common control with the Sub-Adviser acts as the investment adviser within the meaning section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Fund) or as the sponsor (in the case of an Unaffiliated Trust).

A Registered Separate Account will seek voting instructions from its contract holders and will vote its shares of an Unaffiliated Underlying Fund in accordance with the instructions received and will vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. An Unregistered Separate Account will either: (i) vote its shares of the Unaffiliated Underlying Fund in the same proportion as the vote of all other holders of the Unaffiliated Underlying Fund's shares; or (ii) seek voting instructions from its contract holders and vote its shares in accordance with the instructions received and vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Unaffiliated Underlying Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Underlying Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Disinterested Trustees, will adopt procedures reasonably designed to assure that the Adviser and any Fund of Fund Sub-Adviser are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or a Fund of Funds Affiliate from an Unaffiliated Underlying Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Fund, including a majority of the Disinterested Trustees, will determine that any consideration paid by the Unaffiliated Fund to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Fund; (b) is within the range of consideration that the Unaffiliated Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Fund or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Underlying Fund to purchase a security in an Affiliated Underwriting.

6. The Board of an Unaffiliated Fund, including a majority of the Disinterested Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Unaffiliated Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in shares of the Unaffiliated Fund. The Board of the Unaffiliated Fund will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Fund will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the Board of the Unaffiliated Fund were made.

8. Prior to its investment in shares of an Unaffiliated Fund in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Fund will execute a Participation Agreement stating, without limitation, that their boards of directors or trustees and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Fund

of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Fund and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Prior to approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Disinterested Trustees, will find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Affiliated Underlying Fund or Unaffiliated Funds in which the Fund of Funds may invest. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Fund of Funds Advisers will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Fund under rule 12b–1 under the Act) received by the Fund of Funds Adviser, or an affiliated person of the Fund of Funds Adviser, other than any advisory fees paid to the Fund of Funds Adviser or its affiliated person by the Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Underlying Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received from an Unaffiliated Underlying Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by an Unaffiliated Fund, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in rule 2830 of the Conduct Rules of the National Association of Securities Dealers (''NASD''), if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds set forth in rule 2830 of the NASD Conduct Rules.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–9270 Filed 5–14–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55721; File No. SR–NASDAQ–2007–047]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish an Opening and Closing Cross for Securities Listed on the NYSE, Amex, and Regional Exchanges

May 7, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2007, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder, which renders it effective upon filing with the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes a rule change to provide an open and close that matches orders where possible and provides a useful, tradable, robust opening and closing price for all securities listed on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), and regional exchanges. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nasdaq.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq's Opening and Closing Crosses are price discovery facilities that cross orders at a single price. Nasdaq proposes to extend the success of Nasdaq's Opening and Closing Cross matching functionality, which has been widely accepted in the industry, for all of the securities listed on the NYSE, Amex, and regional exchanges (the ''non-Nasdaq securities'') with adjustments, as necessary, to comply with National Market System Plans and SEC rules specific to those securities,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

such as SEC Rule 10a–1.[5] Other than the exception described above, the processing will be exactly the same for the non-Nasdaq securities as the current process for Nasdaq securities.[6]

The proposed rule changes would provide Nasdaq with an open and close that matches orders and provides a useful, tradable, robust opening and closing price. Additionally, the process used will add transparency to the open and close in the same orderly process that is used for securities listed on Nasdaq. The same order types currently offered in the opening and closing process will be applied to non-Nasdaq securities, including: ''On Open,'' ''Opening Imbalance Only,'' ''On Close,'' ''Closing Imbalance Only,'' and ''Imbalance Only.'' The methodology used to determine the Opening and Closing Cross prices for non-Nasdaq securities as well as the execution algorithm for determining order priority will be identical to those currently employed for Nasdaq securities. Continuous information regarding the imbalances and indicative prices will be disseminated prior to the Opening and Closing Crosses exactly as it is currently disseminated for Nasdaq securities.

Like the current Opening and Closing Crosses for Nasdaq-listed securities, the Crosses for non-Nasdaq securities will have built in parameters to protect investors against executions that are not in line with normal trading in a given security. For non-Nasdaq securities the benchmark will be adjusted as necessary to account for the fact that a large percentage of share volume is traded on other markets.

Nasdaq will launch the Opening and Closing Crosses for non-Nasdaq securities in a phased manner. Nasdaq's current intention is to begin with less than ten securities and, after determining that it is prudent to proceed, select another larger group of less than one hundred securities and, once again after determining that it is prudent to proceed, continue the roll-out in a prudent manner until the roll-out is complete. Using a phased-in approach should ensure a smooth and orderly transition from the current opening process to the Nasdaq Opening and Closing Crosses and should be completed within several weeks of its initiation.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general and with Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change is based on successful experience with the Opening and Closing Cross for Nasdaq listed securities and is consistent with these requirements in that the changes are designed to address market participant input.

B. Self Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] As required by Rule 19b–4(f)(6)(iii), Nasdaq provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2007–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–047. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying

[5] Nasdaq Rule 3350, which governs short sales in Nasdaq securities, uses the latest bid change to determine the validity of a short sale. SEC Rule 10a–1, which governs short sales in non-Nasdaq securities, uses the last sale change to determine the validity of a short sale. Nasdaq will ensure that the Opening and Closing Crosses for non-Nasdaq securities comply with SEC Rule 10a–1. This difference will not impact the way orders are entered, displayed, priced or executed within the crosses; it is entirely a change that is internal to Nasdaq.

[6] Nasdaq Rule 4752 currently limits the Opening Cross to Nasdaq-listed securities. Nasdaq proposes to remove that restriction and leave the substance of the rule unchanged. Nasdaq Rule 4754, governing the Closing Cross, contains no parallel restriction, therefore no change to Rule 4754 is required.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR–NASDAQ–2007–047 and should be submitted on or before June 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–9249 Filed 5–14–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55718; File No. SR–NYSEArca–2007–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the $1 Strike Pilot Program for an Additional Year

May 7, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by NYSE Arca. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca proposes to amend its rules to extend the $1 strike pilot program (''Pilot Program'') for an additional year. The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and *www.nysearca.com.*

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend its Pilot Program for one year. The current Pilot Program expires on June 5, 2007. NYSE Arca notes that OTP Firms have expressed a continued interest in listing additional strike prices on low-priced stocks so that they can provide their customers with greater flexibility in their investment choices. For this reason, the Exchange proposes to extend the Pilot Program. The Exchange notes that the Pilot Program will remain unchanged in all material respects, including: The procedures for adding $1 strike intervals; the procedures for phasing out $2.50 strike price intervals; the prohibition against listing long-term options (''LEAPS'') in equity option classes at $1 strike intervals; the procedures for adding expiration months; and the procedures for deleting $1 strike intervals. In support of the Exchange's proposal to extend the Pilot Program until June 5, 2008, the Exchange is submitting a report to the Commission (''Pilot Program Report''), attached as Exhibit 3 to the proposal, offering detailed data from, and analysis of, the Pilot Program.

2. Statutory Basis

The Exchange believes that the continuing the Pilot Program will stimulate customer interest in options overlying lower-priced stocks by creating greater trading opportunities and flexibility. The Exchange further believes that continuing the Pilot Program will provide customers with the ability to more closely tailor investment strategies to the precise movement of the underlying security. For these reasons, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Arca has satisfied the five-day pre-filing requirement. As set forth in the Commission's initial approval of the Pilot Program and in its order extending the operation of the Pilot Program through June 5, 2005, if NYSE Arca proposes to: (1) extend the Pilot Program; (2) expand the number of options eligible for inclusion in the Pilot Program; or (3) seek permanent approval of the Pilot Program, it must submit a Pilot Program report to the Commission along with the filing of its proposal to extend, expand, or seek permanent approval of the Pilot Program. NYSE Arca must file any proposal to expand or seek permanent approval of the Pilot Program and the Pilot Program report with the Commission at least 60 days prior to the expiration of the Pilot Program. The Pilot Program report must cover the entire time the Pilot Program was in effect and must include: (1) data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of $1 strike price intervals for the options NYSE Arca selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of NYSE Arca's,

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSEAcra–2007–42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca-2007–42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca-2007–42 and should be submitted on or before June 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–9261 Filed 5–14–07; 8:45 am]

BILLING CODE 8010–01–P

the Options Price Reporting Authority's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how NYSE Arca addressed them; (6) any complaints that NYSE Arca received during the operation of the Pilot Program and how NYSE Arca addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program. *See* Securities Exchange Act Release Nos. 48945 (June 17, 2003), 68 FR 37594 (June 24, 2003) (SR–PCX–2003–28) and 50152 (August 5, 2004), 69 FR 49931 (August 12, 2004) (SR–PCX–2004–61).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55729; File No. SR–Phlx–2007–26]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto, Relating to Price Improved Linkage P/A Orders

May 9, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 21, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Phlx. On May 2, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 1034, Minimum Increments, and to adopt proposed Phlx Rule 1080(c)(iv)(F), to permit the Exchange to execute Linkage Principal Acting as Agent (''P/A'') Orders[4] that are sent to, and price-improved on, another exchange, and subsequently presented for execution on the Phlx against customer limit orders on the limit order book that give rise to the initial P/A Order, at a price other than the minimum trading increment applicable to the particular series traded.

The proposed amendment to Phlx Rule 1080(c)(iv)(F) states that such orders would be ineligible for automatic execution, and would instead be handled manually by the specialist.

The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and *www.phlx.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit Exchange specialists to execute price-improved P/A Orders against public customer limit orders at prices other than the minimum trading increment applicable to that particular series so that the customer limit order underlying the P/A Order receives the improved price.

Currently, Phlx Rule 1034, Minimum Increments, generally provides that options quoting at $3.00 or higher have a minimum increment of $.10, and options quoting under $3.00 have a minimum increment of $.05. Options subject to the current ''penny pilot'' may

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange clarified that the proposed rule change was seeking to permit manual executions of P/A Orders that had been price-improved on another exchange and submitted to Phlx for execution against the original customer limit order that gave rise to the Linkage P/A Order and made minor corrections to the rule text.

[4] A P/A Order is an order under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan''), for the principal account of a specialist (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent. *See* Phlx Rule 1083(k)(i).

be quoted and traded in increments as low as $.01.[5]

The proposed rule change concerns P/A Orders sent from the Exchange to another exchange via the Intermarket Option Linkage. When a P/A Order sent from the Exchange to another exchange is executed on that other exchange, the executed P/A Order is delivered back to the specialist electronically, where the specialist is responsible to execute the public customer limit order at the execution price of the P/A Order on the other exchange.

Recently, some P/A Orders have been executed on other exchanges at improved prices after being submitted to a price-improvement auction process on the other exchange. The result is that the executed P/A Order is delivered back to the Exchange at a price that is expressed in other than the Exchange's minimum trading increment. For example, if the Phlx disseminated market in a particular series is 2.10 bid, 2.20 ask, and another exchange is disseminating a bid price of 2.15, a P/A Order to sell an option series would be delivered by the Phlx specialist to the other exchange disseminating a limit bid price of $2.15. The specialist's P/A Order might be executed in a price-improving auction at an improved price of $2.17 on the other exchange. The P/A Order would be delivered back to the Phlx specialist for execution at $2.17. This would be prohibited under current Exchange rules, which require an execution at either $2.15 (disadvantaging the public customer), or $2.20 (disadvantaging the specialist), because the minimum trading increment applicable to the series is $.05.[6]

The proposed rule change is intended to eliminate this anomaly by providing that a P/A Order that has been sent from the Exchange to, and price-improved on, another exchange at a price expressed in other than the minimum trading increment currently contained in the rule, and then submitted to the Exchange for execution against the original customer limit order that gave rise to the P/A Order, may be traded on the Exchange at such price. Therefore, in the example above, the specialist could fill the public customer order at the P/A Order execution price of $2.17.

The proposed amendment to Phlx Rule 1080(c)(iv)(F) provides that such orders would be ineligible for automatic execution and would instead be handled manually by the specialist.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by establishing a rule that provides for accurate execution of customer limit orders at improved prices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2007–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx-2007–26. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2007–26 and should be submitted on or before June 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–9260 Filed 5–14–07; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10854]

Iowa Disaster #IA–00007; Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of an Economic Injury Disaster Loan (EIDL)

[5] *See* Securities Exchange Act Release No. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74).

[6] In this situation, Phlx specialists would execute the customer order on the book at the price most favorable to the customer.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

declaration for the State of Iowa, dated 05/07/2007.

Incident: Winter Storms.

Incident Period: 02/23/2007 through 03/02/2007.

EFFECTIVE DATE: 05/07/2007.

EIDL Loan Application Deadline Date: 01/28/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of an Economic Injury declaration for the State of Iowa dated 04/27/2007, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Clayton.

Contiguous Counties:

Iowa: Allamakee, Delaware, Dubuque, Winneshiek.

Wisconsin: Crawford, Grant.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: May 7, 2007.

Steven C. Preston,

Administrator.

[FR Doc. E7–9310 Filed 5–14–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 5794]

60-Day Notice of Proposed Information Collection: Voluntary Disclosures; OMB Control Number 1405–XXXX

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for information collection described below. The purpose of this notice is to allow 60 days for public comments in the **Federal Register** preceding submission to OMB of the Form DS–4048 as the means of collecting the information. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection*: Voluntary Disclosures.
- *OMB Control Number*: 1405-XXXX.
- *Type of Request*: Existing Collection in Use without an OMB Control Number.
- *Originating Office*: Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.
- *Form Number*: No Form.
- *Respondents*: Business organizations.
- *Estimated Number of Respondents*: 400 (total).
- *Estimated Number of Responses*: 400 (per year).
- *Average Hours Per Response*: 10 hours.
- *Total Estimated Burden*: 4,000 hours (per year).
- *Frequency*: On Occasion.
- *Obligation to Respond*: Voluntary.

DATES: The Department will accept comments from the public up to 60 days from May 15, 2007.

ADDRESSES: Comments and questions should be directed to Patricia C. Slygh, the Acting Director of the Office of Defense Trade Controls Management, Department of State, who may be reached via the following methods:

- *E-mail*: *slyghpc@state.gov.*
- *Mail*: Patricia C. Slygh, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112
- *Fax*: 202–261–8199

You must include the information collection title in the subject lines of your message/letter.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the information collection and supporting documents, to 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 via e-mail at *slyghpc@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of 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: Section 127.12 of the International Traffic in Arms Regulations (ITAR) encourages the disclosure of information to the Directorate of Defense Trade Controls when there has been a violation of the Arms Export Control Act (AECA), ITAR, order, license, or other authorization issued under the AECA. The violation is analyzed to determine the harm to the U.S. national security and foreign policy interests.

Methodology: These information collections may be sent to the Directorate of Defense Trade Controls via the following methods: mail, personal delivery, e-mail, and/or fax.

Dated: April 13, 2007.

Robert W. Maggi,

Acting Deputy Assistant Secretary for Defense Trade Controls, Bureau of Political-Military Affairs, Department of State.

[FR Doc. E7–9282 Filed 5–14–07; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 5795]

Preparation of Fourth U.S. Climate Action Report

AGENCY: Department of State

ACTION: Notice of extension of deadline for request for public comments.

SUMMARY: In June 1992, the United States signed, and later ratified in October, the United Nations Framework Convention on Climate Change (UNFCCC). Pursuant to the national communication reporting requirements under Articles 4.2 and 12 of the Convention and to guidelines later adopted by the UNFCCC Conference of the Parties (COP), the United States submitted the first U.S. Climate Action Report (USCAR) to the UNFCCC Secretariat in 1994, the second in 1997 and the third in 2002. The U.S. Government has prepared an initial draft of the fourth national communication for public review, and provided notice in the **Federal Register** on May 4, 2007 soliciting public input on the draft text of the national communication prior to finalization of the document. The purpose of this announcement is to notify interested members of the public that the Department of State is extending the deadline for submitting comments on the draft text to June 1.

DATES: The Department of State is extending the deadline for comments by 14 days from the original deadline of May 18. Written comments should be received on or before noon, June 1.

ADDRESSES: Comments should be submitted via e-mail to *CAR4@state.gov*.

Additionally, comments may be sent via postal mail to: CAR4 Comments, U.S. Department of State, Office of Global Change (Room 2480), 2201 ''C'' Street NW., Washington, DC 20520 or via fax to: (202) 647–0191.

FOR FURTHER INFORMATION CONTACT: Dr. Kirsten R. Jaglo, Office of Global Change, U.S. Department of State at (202) 736–7092.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the UNFCCC's reporting requirements as specified in Articles 4.2 and 12, and following reporting guidelines developed (and adopted by the UNFCCC COP at its first session), the United States prepared the first U.S. Climate Action Report (CAR) and submitted it to the UNFCCC Secretariat in October 1994.

At the eighth COP in 2002, in Decision 4/CP.8 the Parties requested that Parties included in Annex I to the convention submit to the secretariat a fourth national communication (see FCCC/CP/2002/7/Add.1). This document is available on the Internet at *http://unfccc.int/resource/docs/cop8/07a01.pdf#page=12*.

The Fourth United States Climate Action Report (CAR)

The draft fourth CAR provides an update on key activities conducted by the U.S. since the third CAR, an inventory of U.S. greenhouse gas emissions and sinks, an estimate of the effects of mitigation measures and policies on future emissions levels, and a description of U.S. leadership and involvement in international programs, including associated contributions and funding efforts.

In addition, the text discusses U.S. national circumstances that affect U.S. vulnerability and responses to climate change. Finally, the CAR presents information on the U.S. Climate Change Science Program, the U.S. Climate Change Technology Program, our efforts in systematic observations, including the U.S. Integrated Earth Observation System, and our education, training and outreach efforts.

Table of Contents of the draft Fourth U.S. CAR

1. Introduction and overview.
2. National circumstances.
3. Greenhouse gas inventory.
4. Policies and measures.
5. Projected greenhouse gas emissions.
6. Impacts and Adaptation.
7. Financial resources and transfer of technology.
8. Research and systematic observation.
9. Education, training, and outreach.

Public Input Process

This **Federal Register** notice solicits comments on the draft chapters listed above. The individual chapters are posted on the Internet and may be down-loaded from the following Web site: *http://www.state.gov/g/oes/climate*. Comments may be submitted to the contact listed above. Comments on each of the chapters will be due within 14 days of release.

The 2002 U.S. Climate Action Report may be viewed or downloaded via the Internet at: *http://www.gcrio.org/CAR2002/*.

Dated: May 10, 2007.

Drew Nelson,

Acting Director, Office of Global Change, Department of State.

[FR Doc. E7–9293 Filed 5–14–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Written Reevaluation and Record of Decision; Centerfield Taxiway; Logan International Airport; Boston, MA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces availability of a Written Reevaluation and Record of Decision (ROD) for a Centerfield Taxiway at Logan International Airport, Boston, Massachusetts. The ROD follows the issuance of a Final Environmental Impact Statement for the Airside Improvement Planning Project, issued in June 2002, and subsequent Record of Decision (August 2002) that approved several airport development projects but deferred a decision on the Centerfield Taxiway. The FAA is now documenting its decision to approve the Centerfield Taxiway and take action toward making federal funds available for its construction. FAA's Record of Decision may be accessed on FAA's public Web site: *www.faa.gov/airports_airtraffic.*

DATES: *Effective Date:* The effective date of the FAA's Record of Decision on the Centerfield Taxiway at Logan International Airport is April 20, 2007.

FOR FURTHER INFORMATION CONTACT: For additional information contact John C. Silva, Federal Aviation Administration, New England Region, Airports Division, ANE–610, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone 781–238–7602.

Issued in Burlington, Massachusetts on May 3, 2007.

Michel Hovan,

Acting Manager, Airports Division.

[FR Doc. 07–2376 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 06–19–C–00–ORD To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on applications.

SUMMARY: The FAA proposes to rule and invites public comment on the applications to impose and use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158). Due to the fact that the two applications involve projects associated with the O'Hare Modernization Program, the FAA has elected to combine the two applications and will issue one Final Agency Decision for the combined applications.

DATES: Comments must be received on or before June 14, 2007.

ADDRESSES: Comments on the applications may be mailed or delivered in triplicate to the FAA at the following address: James G. Keefer, Federal Aviation Administration, Manager, Chicago Airports District Office, 2300 E. Devon, Room 320, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Nuria I. Fernandez, Commissioner of the City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, 10510 West Zemke Road, P.O. Box 66142, Chicago, Illinois 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: James G. Keefer, Federal Aviation Administration, Manager, Chicago Airports District Office, 2300 E. Devon, Room 320, Des Plaines, Illinois 60018, (847) 294–7336.

Review of Applications: Any person may inspect the applications in person at the Chicago Airports District Office, 2300 E. Devon, Room 320, Des Plaines, Illinois 60018. Please call (847) 294–7336 to set up an appointment. The applications may also be viewed at *www.agl.faa.gov/OMP/PFC/PFC.htm.*

In addition, any person may, upon request, inspect the applications, notice and other documents germane to the application in person at the City of Chicago Department of Aviation, 10510 West Zemke Road, Chicago, Illinois 60666. Please contact Micheal Zonsius at (773) 686–3433 to set up an appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the applications to impose and use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 3, 2007, the FAA determined that the applications to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation were substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the applications, in whole or in part, no later than September 4, 2007.

The following is a brief overview of the applications.

PFC application number: 06–19–C–00–ORD.

Proposed charge effective date: November 1, 2015.

Proposed charge expiration date: February 1, 2022.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $1,282,309,174.

Brief description of proposed projects: New Runway 9L–27R—Construction, Extension of Future Runway 10L–28R—Construction, Future Runway 10C–28C—Construction, and Land Acquisition.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi.

Issued in Des Plaines, Illinois, on May 8, 2007.

Debbie Roth,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 07–2375 Filed 5–14–07; 8:45 am]

BILLING CODE 4710–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In April 2007, there were two applications approved. This notice also includes information on two applications, one approved in January 2007 and the other approved in March 2007, inadvertently left off the January 2007 and March 2007 notices, respectively. Additionally, 15 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158) and Part 158 of the Federal Aviation Regulations (14 CFR part 1580. This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Shenandoah Valley Regional Airport Commission Weyers Cave, Virginia.

Application Number: 07–02–C–00–SHD.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $24,811.

Earliest Charge Effective Date: June 1, 2007.

Estimated Charge Expiration Date: January 1, 2018.

Class of Air Carriers Not Required To Collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Shenandoah Valley Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Develop PFC program and PFC application.
Rehabilitate runway 5/23—design.
Construct snow removal equipment building—design.
Rehabilitate runway 5/23—construction
Rehabilitate taxiway A—design and construction.
Construct snow removal equipment building—construction.
Acquire snow removal equipment.
Rehabilitate runway 5/23 lighting—design.
Rehabilitate runway 5/23 lighting—construction.

Decision Date: January 22, 2007.

FOR FURTHER INFORMATION CONTACT: Luis Loarte, Washington Airports District Office. (703) 661–1365.

Public Agency: Monroe County Board of County Commissions, Key West, Florida.

Application Number: 07–12–C–00–EYW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $111,216.

Earliest Charge Effective Date: December 1, 2037.

Estimated Charge Expiration Date: March 1, 2038.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection at Key West International Airport (EYW) and Use of PFC Revenue at EYW:

Acquire aircraft rescue and firefighting vehicle (1,500 gallon).
Aircraft rescue and firefighting building emergency power.
Master plan update, airport utilities.

Brief Description of Projects Approved for Collection at EYW and Use of PFC Revenue at the Florida Keys Marathon Airport (MTH):

Replace perimeter fence.
Construct airfield emergency generator and electrical vault.
Master plan update, airport utilities.

Brief Description of Disapproved Project (Proposed Collection at EYW and Use at MTH): Environmental assessment.

Determination: The FAA determined that this project was not yet justified.

Decision Date: March 23, 2007.

FOR FURTHER INFORMATION CONTACT. Susan Moore, Orlando Airports District Office, (407) 812–6331, extension 120.

Public Agency: City of Aberdeen, South Dakota.

Application Number: 07–02–C–00–ABR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $533,588.

Earliest Charge Effective Date: June 1, 2007.

Estimated Charge Expiration Date: March 1, 2010.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Reconstruction of runway 17/35
Taxiway D lighting
Snow removal equipment
Passenger loading bridge
Terminal building
Runway safety areas
Snow removal equipment
Perimeter fencing
Snow removal equipment
Taxiway C and aircraft rescue and firefighting access improvements

Decision Date: April 9, 2007.

FOR FURTHER INFORMATION CONTACT. Thomas Schauer, Bismarck Airports District Office, (701) 323–7383.

Public Agency: Hillsborough County Aviation Authority, Tampa, Florida.

Application Number: 07–07–C–00–TPA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $98,840,500.

Earliest Charge Effective Date: September 1, 2013.

Estimated Charge Expiration Date: September 1, 2015.

Class of Air Carriers not Required to Collect PFC's: On-demand air taxi/commercial operators.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Tampa International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Airside D demolition and apron reconstruction.
Construct north portion of taxiway V and reconstruct portion of W.
Baggage claim expansion and capacity enhancements.
Property acquisition for runway 17/35 clear zone.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level: Terminal recirculation flyover bridge to George Bean Parkway.
Airside F shuttle system rehabilitation and car replacement
Monorail system controls replacement and upgrade
Airport support area environmental remediation

Decision Date: April 25, 2007.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331, extension 120.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
94–02–C–02–INL International Falls, MN	03/29/07	$280,066	$280,066	07/01/00	07/01/00
02–08–C–01–JAC Jackson, WY	04/02/07	953,023	1,186,158	11/01/04	04/01/04
04–09–C–01–JAC Jackson, WY	04/02/07	1,814,693	2,208,596	03/01/08	01/01/07
94–01–C–09–CVG Covington, KY	04/06/07	35,796,000	35,797,000	04/01/96	04/01/96
98–03–C–08–CVG Covington, KY	04/06/07	24,852,000	24,843,175	08/01/99	08/01/99
98–04–C–07–CVG Covington, KY	04/06/07	33,061,000	33,057,380	08/01/00	08/01/00
99–05–C–07–CVG Covington, KY	04/06/07	18,304,000	18,220,829	02/01/02	02/01/02
01–07–C–04–CVG Covington, KY	04/06/07	39,511,000	39,517,000	02/01/04	02/01/04
02–08–C–03–CVG Covington, KY	04/11/07	268,062,000	268,108,000	12/01/11	11/01/11
05–09–C–03–CVG Covington, KY	04/11/07	45,571,000	43,794,000	03/01/13	12/01/12
06–10–C–01–CVG Covington, KY	04/11/07	30,821,000	33,010,000	01/01/15	09/01/14
01–12–C–07–ORD Chicago, IL	04/13/07	1,082,312,097	1,304,612,097	06/01/13	06/01/13
97–04–C–01–RFD Rockford, IL	04/23/07	7,066,659	7,066,659	08/01/18	05/01/14
04–06–C–01–PSC Pasco, WA	04/23/07	4,598,735	8,599,230	01/01/12	04/01/16
99–01–C–02–HGR Hagerstown, MD	04/25/07	308,867	308,817	01/01/04	01/01/04

Note: The amendments denoted by an asterisk (*) include a change to the PFC level changed from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Rockford, IL, this change is effective on June 1, 2007.

Issued in Washington, DC on May 8, 2007.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 07–2374 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2007–28106]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PIRATE.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2007–28106 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 14, 2007.

ADDRESSES: Comments should refer to docket number MARAD–2007–28106. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401,

Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PIRATE is:

Intended Use: ''We operate a seasonal sailing charter business on Lake Tahoe. We cater to families.''

Geographic Region: California/Nevada (Lake Tahoe is in both states.)

Privacy Act

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

Dated: May 2, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–9227 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2007–28107]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel STARS & STRIPES.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2007–28107 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 14, 2007.

ADDRESSES: Comments should refer to docket number MARAD–2007–28107. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel STARS & STRIPES is:

Intended Use: ''Taking passengers for day sails.''

Geographic Region: New York, New Jersey, Connecticut.

Privacy Act

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

Dated: May 3, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–9224 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2007–28105]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel STARS & STRIPES II.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2007–28105 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver

criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 14, 2007.

ADDRESSES: Comments should refer to docket number MARAD–2007–28105. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC. 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel STARS & STRIPES II is:

Intended Use: ''Taking passengers for day sails.''

Geographic Region: New York, New Jersey, Connecticut.

Privacy Act

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

Dated: May 2, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–9225 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28056]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on the proposed collection of information.

This document describes a proposed collection of information under regulations in 49 CFR parts 591, 592, and 593 that pertain to the importation of motor vehicles and items of motor vehicle equipment that are subject to the Federal motor vehicle safety, bumper, and theft prevention standards.

DATES: Comments must be received on or before July 16, 2007.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Prior Approval

On May 4, 2004, NHTSA submitted to OMB a request for the extension of the agency's approval (assigned OMB No. 2127–0002) of the information collection that is incident to NHTSA's administration of the vehicle importation regulations at 49 CFR parts 591, 592, and 593. On July 26, 2004, OMB notified NHTSA that it had approved this extension request through July 31, 2007. That approval was based on NHTSA submissions identifying information being collected on an annual basis from 838,000 respondents, expending 72,860 hours of effort, at a cost of $317,000. NHTSA wishes to file with OMB a request for that agency to extend its approval for an additional three years.

Changes in Program

Since the information collection associated with NHTSA's importation program was last approved by OMB, profound changes have taken place that impact the information collection and the assessment of its burden on affected members of the public. These are principally attributable to the continuing weakening of the U.S. dollar against foreign currencies. The focus of NHTSA's importation program is on vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS). These vehicles must be imported by a registered importer (RI) under bond to ensure that the vehicles are brought into compliance with applicable standards following importation. Nonconforming vehicles are entered under Box 3 on the HS–7 Declaration form. In calendar year 2002, 212,210 nonconforming vehicles were imported under Box 3. Over 97 percent of those vehicles were imported from Canada. In 2003, after the U.S. dollar began to weaken against the Canadian dollar, the volume of nonconforming vehicle imports under Box 3 was reduced by more than half, to 97,337 vehicles. The trend accelerated over the next three years, with 43,648 vehicles imported under Box 3 in 2004, 12,642 imported in 2005, and 10,953 imported in 2006.

When NHTSA last requested OMB approval for the information collection associated with the vehicle importation program, the agency estimated that 163,000 nonconforming vehicles would be imported on an annual basis under Box 3, for which HS–7 Declaration forms and HS–474 DOT Conformance bonds would have to be furnished. The agency estimated that it would take five minutes to complete each HS–7 Declaration form, and six minutes to complete each HS–474 DOT Conformance bond, for a total expenditure of 29,882 hours to complete these forms. Given the profound reduction in nonconforming vehicle imports under Box 3 in recent years, future projections should assume an average of 11,000 vehicle imports per year. Relying on this figure, the hour burden associated with the completion of paperwork for these vehicles would

be close to 2,017 hours (0.08333 hours to complete each HS–7 × 11,000 vehicles = 915.53 hours; 0.1 hours to complete each HS–474 × 11,000 vehicles = 1,100 hours; 915.53 + 1,100 = 2,016.53 hours). This represents more than a 93 percent reduction in burden hours in comparison to the figures used when OMB approval was last obtained.

Increased Scope of Accounting for Burdens

In this document, the agency has not focused exclusively on vehicles imported under the RI program, but has instead made a concerted effort to quantify the hour burden associated with the completion of paperwork for vehicles and equipment items imported in any legitimate way under NHTSA's regulations. As a consequence, we are providing more particular information than we have in the past on the paperwork burden associated with the importation of conforming motor vehicles; the temporary importation of nonconforming vehicles for personal use by nonresidents and by foreign diplomatic and military personnel; the temporary importation of nonconforming vehicles for purposes of research, investigations, demonstrations or training, and other similar purposes; the importation of vehicles that are not primarily manufactured for on-road use; and other entry categories permitted under the agency's regulations. In addition, we have attempted to account for all forms, whether required or optional, and other types of information solicitations associated with vehicle and equipment importation that appear on the agency's Web site and in newsletters and other informational media that we employ to inform RIs and others of our requirements. Accounting for all paperwork burdens in this more particularized manner, we project that a total of 42,413 hours will be expended each year to complete paperwork associated with all aspects of NHTSA's program that regulates the importation of motor vehicles and equipment items subject to the FMVSS.

Issues for Comments To Address

Under the Paperwork Reduction Act of 1995 (PRA), before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Solicitation of Comments

In compliance with these requirements, NHTSA is requesting public comment on the following proposed collection of information:

Title: Importation of Vehicles and Equipment Subject to the Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards.

Type of Request: Extension of a Currently Approved Collection.

OMB Control Number: 2127–0002.

Affected Public: Importers of vehicles and regulated items of motor vehicle equipment.

Requested Expiration Date of Approval: July 31, 2010.

Summary of Collection of Information

1. Declaration requirement for the importation of motor vehicles and regulated items of motor vehicle equipment: NHTSA's regulations at 49 CFR part 591 provide that no person shall import a motor vehicle or regulated item of motor vehicle equipment (*e.g.*, tires, rims, brake hoses, brake fluid, seat belt assemblies, lighting equipment, glazing, motorcycle helmets, child restraints, compressed natural gas containers, warning devices, rear impact guards, and platform lift systems) unless the importer files a declaration. See 49 CFR 591.5. This declaration is filed with U.S. Customs and Border Protection (Customs) on a paper copy of the HS–7 Declaration form, or, if the entry is made by a Customs House Broker, it can be made electronically using Customs' Automated Broker Interface (ABI) system. The HS–7 Declaration form has 14 boxes, each of which identifies a lawful basis for the importation of a motor vehicle or equipment item into the United States.

a. Importation of vehicles at least 25 years old or equipment not subject to the safety standards under Box 1: A motor vehicle at least 25 years old can be lawfully imported without regard to its compliance with the FMVSS. So too can an equipment item manufactured on a date when no applicable FMVSS was in effect. These vehicles and equipment items are declared under Box 1 on the HS–7 Declaration form. In calendar year 2004, 8,811 vehicles were imported under Box 1. In 2005, 10,146 vehicles were imported, and in 2006, the volume of imports increased to 15,445 vehicles. Based on an average of these figures, the agency projects that roughly 12,000 vehicles will be imported each year under Box 1 over the next three years. Assuming that an HS–7 Declaration form is filed for each of these vehicles, and that it will take five minutes to complete each of these forms, the agency estimates the hour burden associated with completing the paperwork for these vehicles to be approximately 1,000 hours per year (0.083333 hours × 12,000 = 1,000 hours).

b. Importation of conforming vehicles and equipment under Box 2A: Vehicles and equipment that are originally manufactured to comply with all applicable Federal motor vehicle safety, bumper, and theft prevention standards, and that bear a label or tag certifying such compliance that is permanently affixed by the original manufacturer, are declared under Box 2A on the HS–7 Declaration form. In 2004, 2,767,839 vehicles were imported under Box 2A. In 2005, the figure increased to 3,898,152 vehicles, and increased again in 2006, to 4,372,442. Based on an average of these figures, the agency projects that roughly 3,700,000 vehicles will be imported each year under Box 2A for the next three years. The overwhelming majority of vehicles entered under Box 2A are imported by original manufacturers. As a rule, manufacturers do not file a separate HS–7 Declaration form for each conforming vehicle they import under Box 2A. Instead, the manufacturers furnish NHTSA with a single declaration form, on a monthly basis, to which they attach a list of all vehicles, identified by make, model, model year, and vehicle identification number (VIN), that were imported under Box 2A during that month. In this manner, it is not unusual for a single HS–7 Declaration form to be filed with the agency to cover the entry of many thousands of vehicles. Assuming that manufacturers account for 90 percent of the vehicles imported under Box 2A, and that a manufacturer

will, on average, report the entry of 5,000 vehicles on a single Declaration form, and that all other vehicles imported under Box 2A are declared individually, the agency projects the hour burden associated with completing the paperwork for the entry of these vehicles to be 30,832 hours per year (3,700,000 vehicles × .9 = 3,330,000 vehicles imported by original manufacturers; 3,330,000 vehicles ÷ 5,000 vehicles per declaration forms filed = 666 declaration forms being filed per year by manufacturers; assuming that a separate declaration is filed for each other vehicle imported under Box 2A yields 370,000 declarations being filed per year for these vehicles; 370,000 + 666 = 370,666 declarations per year; 0.08333 hours to complete each declaration × 370,666 declarations = 30,832 hours).

c. Importation of conforming Canadian-market vehicles for personal use under Box 2B: A motor vehicle that is certified by its original manufacturer as complying with all applicable Canadian motor vehicle safety standards can be imported by an individual for personal use under Box 2B. To accomplish the entry, the importer must furnish Customs with a letter from the vehicle's original manufacturer confirming that the vehicle conforms to all applicable U.S. Federal motor vehicle safety, bumper, and theft prevention standards, or that it conforms to all such standards except for the labeling requirements of Standard Nos. 101 Controls and Displays and 110 or 120 Tire Selection and Rims, and/or the requirements of Standard No. 108 Lamps, Reflective Devices, and Associated Equipment relating to daytime running lamps. NHTSA received from Customs a total of 2012 HS–7 Declaration forms for vehicles imported under Box 2B in calendar year 2005. In addition, declarations were filed electronically for 546 vehicles imported under Box 2B in 2005. Combining these figures yields a total of 2,558 vehicles imported under Box 2B in that calendar year. NHTSA received from Customs a total of 1,330 HS–7 Declaration forms for vehicles imported under Box 2B in 2006. In addition, electronic entries were made for 612 vehicles imported under Box 2B in that calendar year. Combining these figures yields a total of 1,942 vehicles imported under Box 2B in 2006. Assuming these figures represent a fair approximation of the volume of vehicles imported under Box 2B in those two calendar years, the agency projects that roughly 2,250 vehicles will be imported under Box 2B in each of the next three calendar years. Assuming that a separate HS–7 Declaration form is filed for each of these vehicles, the hour burden associated with completing the paperwork for the entry of these vehicles will be 188 hours per year (2,250 vehicles × 0.08333 hours per entry = 188 hours).

d. Importation of nonconforming vehicles by registered importers under Box 3:

Statutory and Regulatory Background

Section 30112(a) of Title 49, U.S. Code prohibits, with certain exceptions, the importation into the United States of a motor vehicle manufactured after the date an applicable Federal motor vehicle safety standard (FMVSS) takes effect, unless the motor vehicle was manufactured in compliance with the standard and was so certified by its original manufacturer. Under one of the exceptions to this prohibition, found at 49 U.S.C. 30141, a nonconforming vehicle can be imported into the United States provided (1) NHTSA decides that it is eligible for importation, based on its capability of being modified to conform to all applicable FMVSS, and (2) it is imported by a registered importer (RI), or by a person who has a contract with an RI to bring the vehicle into conformity with all applicable standards following importation. Regulations implementing this statute are found at 49 CFR parts 591 and 592.

HS–7 Declaration Form

The regulations require a declaration to be filed (on the HS–7 Declaration Form) at the time a vehicle is imported that identifies, among other things, whether the vehicle was originally manufactured to conform to all applicable FMVSS, and if it was not, to state the basis for the importation of the vehicle.

A nonconforming vehicle that NHTSA has decided to be eligible for importation can be imported by an RI, or by a person who has a contract with an RI to modify the vehicle so that it conforms to all applicable FMVSS, under Box 3 on the HS–7 Declaration form. As previously noted, the volume of imports under Box 3 has steadily declined in recent years. In 2005, 12,642 vehicles were imported under Box 3 and in 2006, 10,953 vehicles were imported. Based on these figures, the agency projects that 11,000 vehicles will be imported each year under Box 3. Assuming that volume, the hour burden associated with the completion of the HS–7 Declaration form for these vehicles will be 916 hours (0.08333 hours to complete each HS–7 × 11,000 vehicles = 915.53 hours).

HS–474 Conformance Bond

NHTSA's regulations also require an RI, among other things, to furnish a bond (on the HS–474 Conformance Bond form) at the time of entry for each nonconforming vehicle it imports, to ensure that the vehicle will be brought into conformity with all applicable safety and bumper standards within 120 days of entry or will be exported from, or abandoned to, the United States. A HS–474 Conformance Bond has to be furnished for each nonconforming vehicle imported under Box 3. Assuming an importation volume of 11,000 vehicles per year, the hour burden associated with the completion of the HS–474 will be 1,100 hours (0.1 hours to complete each HS–474 × 11,000 vehicles = 1,100 hours).

Conformity Statement

After modifying the vehicle to conform to all applicable standards, the RI submits a statement of conformity (on a suggested form) to NHTSA, which issues a letter permitting the bond to be released if the agency is satisfied that the vehicle has been modified in the manner stated by the RI. The statement of conformity contains a check off list on which the RI identifies the FMVSS and other agency requirements to which the vehicle conforms as originally manufactured and the FMVSS and other requirements to which the vehicle was modified to conform. The RI also attaches to the statement of conformity documentary and photographic evidence of the modifications that it made to the vehicle to achieve conformity with applicable standards. Collectively, these documents are referred to as a ''conformity package.''

A conformity package must be submitted for each nonconforming vehicle imported under Box 3. Because the Canadian motor vehicle safety standards are identical in most respects to the FMVSS, there are relatively few modifications that need to be performed on a Canadian-certified vehicle to conform it to the FMVSS and the conformity packages that are submitted on these vehicles are considerably less comprehensive than those submitted for vehicles from Europe, Japan, and other foreign markets. The agency estimates that it would take the average RI no more than 30 minutes to collect information for, and assemble, a conformity package for a Canadian-certified vehicle.

Generally, more modifications are needed to conform a non-Canadian vehicle to the FMVSS. To properly document these modifications, more information must be included in the

conformity package for a non-Canadian vehicle than is required for a Canadian-certified vehicle. The agency estimates that it would take an RI approximately twice as long, or roughly one hour, to compile information for, and assemble, a conformity package for a typical non-Canadian vehicle.

Of the 43,684 nonconforming vehicles imported under Box 3 in 2004, 43,357, or over 99 percent, were Canadian market and 327, or under one percent, were from markets other than Canada. Of the 12,668 nonconforming vehicles imported under Box 3 in 2005, 12,496, or roughly 98.5 percent, were Canadian market and 192, or roughly 2.5 percent, were from markets other than Canada. Assuming this trend continues in future years, the agency estimates the hour burden associated with the submission of conformity packages on Canadian-certified vehicles to be 5,390 hours per year (11,000 vehicles × 98 percent or 0.98 = 10780 vehicles; 10780 vehicles × 0.5 hours per vehicle = 5,390 hours). The agency estimates the hour burden associated with the submission of conformity packages for non-Canadian vehicles to be 220 hours per year (11,000 vehicles × 2 percent or 0.02 = 220 vehicles; 220 vehicles × 1.0 hours per vehicle = 220 hours. Adding these figures yields an estimated burden of 5,610 hours per year for the entire RI industry to compile and submit conformity packages to NHTSA on nonconforming vehicles imported under Box 3 (5,390 hours + 220 hours = 5,610 hours).

Import Eligibility Petition

As previously noted, a motor vehicle that was not originally manufactured to comply with all applicable FMVSS cannot be lawfully imported into the United States on a permanent basis unless NHTSA decides that the vehicle is eligible for importation, based on its capability of being modified to conform to those standards. Under 49 U.S.C. 30141, the eligibility decision can be based on the nonconforming vehicle's substantial similarity to a vehicle of the same make, model, and model year that was manufactured for importation into, and sale in the United States, and certified as complying with all applicable FMVSS by its original manufacturer. Where there is no substantially similar U.S.-certified vehicle, the eligibility decision must be predicated on the vehicle having safety features that are capable of being modified to conform to the FMVSS, based on destructive crash test data or such other evidence that the agency may deem adequate. The agency makes import eligibility decisions either on its own initiative, or in response to petitions filed by RIs. Only a small number of RIs (currently about 14 out of the 73 RIs registered with the agency) ever submit import eligibility petitions. Many of these businesses have, over, the years, submitted multiple petitions to the agency. The agency estimates that it would take the typical RI that petitions the agency roughly two hours to complete the paperwork associated with the submission of a petition for a vehicle that has a substantially similar U.S.-certified counterpart, and roughly twice as long, or four hours, to complete the paperwork associated with the submission of a petition for a vehicle that lacks a substantially similar U.S.-certified counterpart. In 2004, 37 import eligibility petitions were submitted to the agency. Of these, 33, or 89 percent, were for vehicles with substantially similar U.S.-certified counterparts and 4, or 11 percent, were for vehicles for which there were no substantially similar U.S. certified counterparts.

In 2005, 24 import eligibility petitions were submitted to the agency. Of these, 16, or 67 percent, were for vehicles with substantially similar U.S.-certified counterparts, and 8, or 33 percent, were for which there were no substantially similar U.S.-certified counterparts. Assuming this trend continues in future years, the agency estimates that roughly 30 import eligibility petitions will be submitted each year, 80 percent of which, or 24 petitions, will be for vehicles with substantially similar U.S.-certified counterparts, and 20 percent of which, or 6 petitions, will be for vehicles lacking substantially similar U.S.-certified counterparts. Based on these figures, the agency estimates that the hour burden for the paperwork associated with the submission of import eligibility petitions to be 72 hours per year (24 petitions × 2 hours per petition = 48 hours; 6 petitions × 4 hours per petition = 24 hours; 48 hours + 24 hours = 72 hours).

e. Importation of vehicles or equipment intended solely for export under Box 4: A nonconforming vehicle or equipment item that is intended solely for export, and bears a tag or label to that effect, can be entered under Box 4 on the HS–7 Declaration form. In 2005, 12,977 vehicles were imported under Box 4. In 2006, 18,800 vehicles were imported under that box. The majority of these vehicles were imported by original manufacturers that did not file individual declaration forms with the agency for each vehicle imported, but instead included those vehicles in the monthly count supplied to the agency along with conforming vehicles imported under Box 2A. The agency received only 147 HS–7 Declaration forms for vehicles imported under Box 4 in 2006. Assuming this represents the share of vehicles imported under Box 4 by parties other than original manufacturers, the agency projects that HS–7 Declaration forms will be filed for no more than one percent of the vehicles imported under Box 4 in future years. Averaging the volume of those imports over the past two years yields an estimate of slightly less than 16,000 vehicles being imported on an annual basis in the next three years, and 160 HS–7 Declaration forms being filed in each of those years. Based on that figure, the hour burden associated with the completion of the HS–7 Declaration form for these vehicles will be under 14 hours (0.08333 hours to complete each HS–7 × 160 vehicles = 13.33 hours).

f. Temporary importation of nonconforming vehicles by nonresidents of the United States under Box 5: Under an international convention to which the United States is a signatory, a nonresident of the United States can import a nonconforming vehicle for personal use, for a period of up to one year, provided the vehicle is not sold while in the United States and is exported no later than one year from its date of entry. These vehicles are entered under Box 5 on the HS–7 Declaration form. To enter a vehicle under Box 5, the importer must also furnish Customs with the importer's passport number and the name of the country that issued the passport. In 2005, a total of 427 vehicles were imported under Box 5. In 2006, 354 vehicles were imported under that box. Based on these figures, the agency estimates that roughly 400 vehicles will be imported under Box 5 in each of the next three years. Assuming that volume, the hour burden associated with the completion of the HS–7 Declaration form for these vehicles will be under 34 hours (0.08333 hours to complete each HS–7 × 400 vehicles = 33.33 hours).

g. Temporary importation of nonconforming vehicles by foreign diplomat under Box 6: A member of a foreign government on assignment in the United States, or a member of the secretariat of a public international organization so designated under the International Organizations Immunities Act, and within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State, can temporarily import a nonconforming vehicle for personal use while in the United States. These vehicles are entered under Box 6 on the HS–7 Declaration form. The importer must attach to the declaration a copy of

the importer's official orders and supply Customs with the name of the embassy to which the importer is attached. In 2005, a total of 82 vehicles were imported under Box 6. In 2006, 70 vehicles were imported under that box. Based on these figures, the agency estimates that roughly 75 vehicles will be imported under Box 6 in each of the next three years. Assuming that volume, the hour burden associated with the completion of the HS–7 Declaration form for these vehicles will be under 7 hours (0.08333 hours to complete each HS–7 × 75 vehicles = 6.25 hours).

h. Temporary importation of nonconforming vehicles and equipment under Box 7: Under 49 U.S.C. 30114, NHTSA is authorized to exempt a motor vehicle or item of motor vehicle equipment from the importation restriction in 49 U.S.C. 30112(a), on such terms the agency decides are necessary, for purposes of research, investigations, demonstrations, training, competitive racing events, show, or display. Regulations implementing this provision are found at 49 CFR part 591. Under those regulations, written permission from NHTSA is needed to temporarily import a nonconforming motor vehicle or equipment item for one of the specified purposes unless the importer is a manufacturer of motor vehicles that are certified to the FMVSS. An application form that can be used to obtain the letter of permission is posted to the agency's Web site at *www.nhtsa.gov/cars/rules/import.* If NHTSA grants it permission, the nonconforming motor vehicle or equipment item can be temporarily imported under Box 7 on the HS–7 Declaration form. In 2005, 5,416 vehicles were imported under Box 7. In 2006, 4,344 vehicles were imported under that box. Permission letters were requested from NHTSA for 283 of those vehicles, representing less than seven percent of the total number of vehicles imported under Box 7 in 2006. The remaining vehicles were imported by original manufacturers of vehicles that are certified to the FMVSS, who can temporarily import nonconforming vehicles for any of the specified purposes under Box 7 without the need for a NHTSA permission letter. Averaging the volume of imports over the past two years, the agency projects that roughly 5,000 vehicles will be imported under Box 7 in each of the next three years. Assuming that applications for NHTSA permission letters will be submitted for ten percent of those vehicles, and that a single application will be filed for each vehicle, the agency estimates that 500 applications will be filed in each of the next three years. Based on the estimate that it will take roughly five minutes to complete each of those applications, the agency projects that under 42 hours will be expended on an annual basis to submit applications for permission from NHTSA to import vehicles under Box 7 (0.0833 hours per application × 500 applications = 41.66 hours). Assuming that a single HS–7 Declaration form is filed for each vehicle imported under Box 7, the agency projects that under 420 hours will be expended on an annual basis in completing the declaration for vehicles imported under Box 7 (0.0833 hours per declaration × 5000 vehicles = 416.66 hours).

i. Importation of off-road vehicles under Box 8: NHTSA regulates the importation of ''motor vehicles,'' which are defined (at 49 U.S.C. 30102) as vehicles that are driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways. Vehicles that are not primarily manufactured for on-road use do not qualify as ''motor vehicles'' under this definition, and may therefore be imported without regard to their compliance with the FMVSS. These vehicles are entered under Box 8 on the HS–7 Declaration form. Vehicles that can be entered in this fashion include those that are originally manufactured for closed circuit racing. Although approval from NHTSA is not needed to import a vehicle that was originally manufactured for racing purposes, the agency will issue a letter recognizing a particular vehicle as having been so manufactured if the importer requests the agency to do so. An application form that can be used to obtain such a letter is also posted to the agency's Web site at *www.nhtsa.gov/cars/rules/import.* In 2005, applications were submitted to NHTSA for 60 vehicles imported under Box 8. In 2006, 69 applications were filed. Based on these figures, the agency projects that 65 applications to import vehicles for racing purposes under Box 8 will be submitted in each of the next three years. Assuming that it will take five minutes to complete each of these applications, the agency estimates that under 6 hours will be expended in completing these applications (0.08333 hours × 65 applications = 5.41 hours).

In 2005, a total of 88,528 vehicles were imported under Box 8. In 2006, 105,609 vehicles were imported under that box. Averaging those figures, the agency projects that roughly 100,000 vehicles will be imported under Box 8 in each of the next three years. The vast majority of these vehicles were off-road motorbikes or all-terrain vehicles that were imported in bulk shipments for which a single declaration was filed. NHTSA received only 117 HS–7 Declaration forms for vehicles imported under Box 8 in 2006. The remainder of the entries were made electronically. Based on the assumption that each entry covers 100 vehicles, the agency estimates that approximately 10,000 Box 8 entries will be made on an annual basis over the next three years. Relying on this assumption, the agency projects that under 840 hours will be expended on an annual basis in completing the declaration for vehicles imported under Box 8 (0.0833 hours per declaration × 10000 vehicles = 833.33 hours).

j. Importation of vehicles or equipment requiring further manufacturing operations under Box 9: A motor vehicle or equipment item that requires further manufacturing operations to perform its intended function, other than the addition of readily attachable components such as mirrors or wipers, or minor finishing operations such as painting, can be entered under Box 9 on the HS–7 Declaration form. Documents from the manufacturer must be furnished for these entries. In 2005, 6,454 vehicles were imported under Box 9. In 2006, 7,697 vehicles were imported under that box. Averaging those figures, the agency projects that roughly 7,000 vehicles will be imported under Box 9 in each of the next three years. Assuming that a separate HS–7 Declaration form is filed for each of those vehicles, the agency projects that under 584 hours will be expended on an annual basis in completing the declaration for vehicles imported under Box 9 (0.0833 hours per declaration × 7000 vehicles = 583.31).

k. Importation of vehicles for show or display under Box 10: Vehicles that are deemed by NHTSA to have sufficient technological or historical significance that they would be worthy of being exhibited in car shows if they were brought to the United States are eligible for importation for purposes of show or display under Box 10 on the HS–7 Declaration form. Written permission from NHTSA is also needed to import a vehicle for that purpose. An application form that can be used to request the agency to decide that a particular make, model, and model year vehicle is eligible for importation for purposes of show or display is posted to the agency's Web site at *www.nhtsa.gov/cars/rules/import.* In 2005, the agency received eleven applications to determine vehicles eligible for importation for purposes of show or display. In 2006, the agency received eight such applications. Averaging these figures, the agency projects that it will receive ten applications to determine

vehicles eligible for importation for purposes of show or display in each of the next three years. Assuming that it will take the typical applicant up to ten hours to compile and assemble the materials needed to support each application, the agency estimates that up to 100 hours will be expended in this activity in each of those years.

Also on the agency's Web site is an application form that can be used to request NHTSA to permit a particular vehicle to be imported for purposes of show or display once the agency has decided that the vehicle is of a make, model, and model year that is eligible for importation for those purposes. Certain restrictions apply to vehicles that are imported for purposes of show or display. Among those is a requirement that the vehicle not be driven in excess of 2,500 miles per year. The application specifies the terms of the importation and makes provision for the applicant to agree to those terms. In 2005, the agency received 22 applications to import specific vehicles for purposes of show or display. In 2006, the agency received 30 such applications. Averaging those figures, the agency estimates that it will receive roughly 26 applications in each of the next three years. Assuming that it will take the typical applicant up to one hour to compile and assemble the materials needed to support each application, the agency estimates that up to 26 hours will be expended in this activity in each of those years.

l. Importation of equipment subject to the Theft Prevention Standard under Box 11: Items of motor vehicle equipment that are marked in accordance with the Theft Prevention Standard in 49 CFR part 541 are entered under Box 11 on the HS–7 Declaration form. In 2005, there were 2,696 entries under Box 11. In 2006, there were 7,542 such entries. Averaging these figures, the agency estimates that 5,000 entries will be made under Box 11 in each of the next three years. Virtually all of these entries are made electronically. This is evidenced by the fact that the agency received only eleven HS–7 Declaration forms for Box 11 entries made in 2006. Assuming that it will take five minutes to complete each of these entries, the agency projects that under 420 hours will be expended on an annual basis in making these entries for vehicles imported under Box 11 (0.0833 hours per declaration × 5000 vehicles = 416.66 hours).

m. Temporary importation of nonconforming vehicles by foreign military personnel under Box 12: A member of the armed forces of a foreign country on assignment in the United States can temporarily import a nonconforming vehicle for personal use during the member's tour of duty under Box 12 on the HS–7 Declaration form. In 2005, a total of 284 vehicles were imported under Box 12. In 2006, 130 such vehicles were imported. Averaging these figures, the agency projects that roughly 200 vehicles will be imported under Box 12 in each of the next three years. Assuming that volume, the hour burden associated with the completion of the HS–7 Declaration form for these vehicles will be under 17 hours (0.08333 hours to complete each HS–7 × 200 vehicles = 16.666 hours).

n. Importation of vehicles to prepare import eligibility petitions under Box 13: A nonconforming vehicle imported by an RI for the purpose of preparing a petition for NHTSA to decide that a particular make, model, and model year vehicle is eligible for importation is entered under Box 13 on the HS–7 Declaration form. A letter from NHTSA granting the importer permission to import the vehicle for that purpose must be filed with the declaration. NHTSA has issued guidance to inform RIs that it will permit no more than two vehicles to be imported for the purpose of preparing an import eligibility petition. Box 13 was incorporated into the HS–7 Declaration form when that form was last revised in May, 2006. Since that time, the agency has received requests to permit the importation of 17 vehicles under Box 13. As previously noted, the agency projects that roughly 30 import eligibility petitions will be submitted in each of the next three years. The agency permits an RI to import up to two vehicles for the purpose of preparing an import eligibility petition. Assuming that each petitioning RI imports two vehicles, the agency estimates that it will receive up to 60 requests per year for letters permitting those vehicles to be imported under Box 13. Estimating that it will take five minutes to complete each of those requests, the hour burden associated with this activity will be under 5 hours (0.08333 hours to complete each request × 60 vehicles = 4.99 hours).

2. Information collected from applicants for RI status and existing RIs seeking to renew their registrations: Under 49 U.S.C. 30141, a motor vehicle that was not originally manufactured to comply with all applicable FMVSS cannot be lawfully imported into the United States on a permanent basis unless (1) NHTSA decides it is eligible for importation, based on its capability of being modified to conform to all applicable FMVSS and (2) it is imported by an RI or by a person who has a contract with an RI to modify the vehicle so that it complies with all applicable FMVSS following importation. NHTSA is authorized by 49 U.S.C. 30141(c) to establish, by regulation, procedures for registering RIs. Those regulations are found in 49 CFR part 592.

a. Information collected from applicants: Under the terms of the regulations in part 592, an applicant for RI status must submit to the agency information that identifies the applicant, specifies the manner in which the applicant's business is organized (i.e., sole proprietorship, partnership, or corporation), and, depending on the form of organization, identifies the principals of the business. The application must also state that the applicant has never had a registration revoked and identify any principal previously affiliated with another RI. The application must also provide the street address and telephone number in the United States of each facility for the conformance, storage, and repair of vehicles that the applicant will use to fulfill its duties as an RI, including records maintenance, and the street address in the United States that it designates as its mailing address. The applicant must also furnish a business license or other similar document issued by a State or local authority authorizing it to do business as an importer, seller, or modifier of motor vehicles, or a statement that it has made a bona fide inquiry and is not required by any State or local authority to maintain such a license. The application must also set forth sufficient information to allow the Administrator to conclude that the applicant (1) is technically able to modify nonconforming vehicles to conform to applicable Federal motor vehicle safety and bumper standards, (2) owns or leases one or more facilities sufficient in nature and size to repair, conform, and store the vehicles for which it furnishes statements of conformity to NHTSA, (3) is financially and technically able to provide notification of and a remedy for a noncompliance with an FMVSS or a defect related to motor vehicle safety determined to exist in the vehicles it imports, and (4) is able to acquire and maintain information on the vehicles that it imports and the owners of those vehicles so that it can notify the owners if a safety-related defect or noncompliance is determined to exist in such vehicles. The application must also contain a statement that the applicant will abide by the duties of an RI and attesting to the truthfulness and correctness of the information provided in the application. A brochure

containing sample documents that an applicant may use in applying to become an RI is posted to the agency's Web site at *www.nhtsa.gov/cars/rules/import.* In 2005, NHTSA received five applications for RI status. In 2006, the agency received four applications of this kind. Based on these figures, the agency anticipates that it will receive five applications for RI status in each of the next three years. Assuming that it will take up to ten hours to compile and assemble the material needed to support a single application, the agency estimates that 50 hours will be expended in this activity for each of the next three years (5 applications × 10 hours = 50 hours).

b. Information collected from existing RIs: To maintain its registration, an RI must file an annual statement affirming that all information it has on file with the agency remains correct and that it continues to comply with the requirements for being an RI. Formats that existing RIs may use to renew their registrations are included in a newsletter sent electronically to each RI before the renewal is due and posted to the agency's Web site at *www.nhtsa.gov/cars/rules/import.* The number of RI renewals has been steadily declining in recent years on account of the continual weakening of the U.S. dollar against the Canadian dollar, and the concomitant reduction in the volume of vehicles imported from Canada. In 2005, NHTSA received renewal packages from 94 RIs. In 2006, the agency received only 69 renewal packages. Based on these figures, the agency anticipates that it will receive an average of 65 renewal packages in each of the next three years. Assuming that it will take up to two hours to compile and assemble the material needed to support a single application for renewal, the agency estimates that 130 hours will be expended in this activity for each of the next three years (65 renewal applications × 2 hours = 130 hours).

3. Information to be retained by RIs: The agency's regulations at 49 CFR 592.6(b) require an RI to maintain and retain certain specified records for each motor vehicle for which it furnishes a certificate of conformity to NHTSA, for a period of 10 years from the vehicle's date of entry. As described in the regulations, those records must consist of ''correspondence and other documents relating to the importation, modification, and substantiation of certification of conformity to the Administrator.'' The regulations further specify that the records to be retained must include (1) a copy of the HS–7 Declaration Form furnished for the vehicle at the time of importation, (2) all vehicle or equipment purchase or sales orders or agreements, conformance agreements with importers other than RIs, and correspondence between the RI and the owner or purchaser of each vehicle for which the RI furnishes a certificate of conformity to NHTSA, (3) the last known name and address of the owner or purchaser of each vehicle for which the RI furnishes a certificate of conformity, and the vehicle identification number (VIN) of the vehicle, and (4) records, both photographic and documentary, reflecting the modifications made by the RI, which were submitted to NHTSA to obtain release of the conformance bond furnished for the vehicle at the time of importation. See 49 CFR 592.6(b)(1) through (b)(4).

The latter records are referred to as a ''conformity package.'' Most conformity packages submitted to the agency covering vehicles imported from Canada are comprised of approximately six sheets of paper (including a check-off sheet identifying the vehicle and the standards that it was originally manufactured to conform to and those that it was modified to conform to, a statement identifying the recall history of the vehicle, a copy of the HS–474 conformance bond covering the vehicle, and a copy of the mandatory service insurance policy obtained by the RI to cover its recall obligations for the vehicle). In addition, most conformity packages include photographs of the vehicle, components that were modified or replaced to conform the vehicle to applicable standards, and the certification labels affixed to the vehicle.

Approximately 120 conformity packages can be stored in a cubic foot of space. Based on projected imports of 10,000 nonconforming vehicles per year, 83.3 cubic feet of space will be needed on an industry-wide basis to store one year's worth of conformity packages. Assuming an annual cost of $20 per cubic foot to store the information, NHTSA estimates the aggregate cost to industry for storing a year's worth of conformity packages to be $1,666.40 per year. Over a ten-year retention period, a member of the industry would be required to retain 55 annual units of records (assuming that one annual unit was stored in the first year, two annual units in the second year, and so on). The aggregate cost to industry of the ten-year record retention requirement will therefore be $91.652 (55 × $1,666.40).

RIs are also required under 49 CFR 592.6(b) to retain a copy of the HS–7 Declaration Form furnished to Customs at the time of entry for each nonconforming vehicle for which they submit a conformity package to NHTSA. Paper HS–7 Declaration Forms are only filed for a small fraction of the nonconforming vehicles imported into the United States. Customs brokers file entries for most nonconforming vehicles electronically by using the Automated Broker Interface (ABI) system. For example, in calendar year 2006, 10,953 ABI entries were made for nonconforming vehicles imported into the United States under Box 3, and only 440 paper HS–7 Declaration Forms (representing less than four percent of the total) were filed for such vehicles. Because HS–7 Declaration Forms are filed for only a small fraction of the nonconforming vehicles that are imported by RIs, the storage requirement for those records can have no more than a negligible cost impact on the industry. Because the remaining records that RIs are required to retain under 49 CFR 592.6(b) may be stored electronically, the costs incident to the storage of those records should also be negligible.

RIs who conduct recall campaigns to remedy a safety-related defect or a noncompliance with an FMVSS determined to exist in a vehicle they import must report the progress of those campaigns to NHTSA. The agency estimates that it should take each RI that is required to conduct a safety recall campaign approximately one hour to compile information for and prepare each of the two reports it would be required to submit to the agency detailing the progress of the recall campaign. Since vehicle manufacturers in most cases include vehicles imported by RIs in their own recall campaigns, it is likely that very few of these reports would have to be prepared or submitted by RIs.

Description of the Need for the Information and Proposed Use of the Information: The information collection detailed above is necessary to ensure that motor vehicles and items of motor vehicle equipment subject to the Federal motor vehicle safety, bumper and theft prevention standards are lawfully imported into the United States. To be lawfully imported, the vehicle or equipment item must be covered by one of the boxes on the HS–7 Declaration form and the importer must declare, subject to penalty for making false statements, that the vehicle or equipment item is entitled to entry under the conditions specified on the form, including the provision of any supporting information or materials that may be required.

NHTSA relies on the information provided by RIs and applicants for RI

status to obtain and renew their registrations so that it can better ensure that RIs are meeting their obligations under the statutes and regulations governing the importation of nonconforming vehicles and can make more informed decisions in conferring RI status on applicants and in permitting RI status to be retained by those currently holding registrations. In this manner, those lacking the capability to responsibly provide RI services, or who have committed or are associated with those who have committed past violations of the vehicle importation laws, can be more readily denied registration as an RI, or if they already hold such a registration, have that registration suspended or revoked when circumstances warrant such action.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Responses to the Collection of Information): With regard to the HS–7 Declaration form, likely respondents include any private individual or commercial entity importing into the United States a vehicle or item of motor vehicle equipment subject to the Federal motor vehicle safety standards. It is difficult to estimate, with reliability, the absolute number of such respondents; however, that number would include:

- The 73 RIs who are currently registered with NHTSA and import nonconforming vehicles under Boxes 3 and 13;
- The roughly 2,000 individuals who import each year Canadian-certified vehicles for personal use under Box 2B;
- The several hundred original manufacturers who import conforming motor vehicles and equipment items under Box 2A; nonconforming vehicles or equipment intended for export under Box 4; nonconforming vehicles and equipment on a temporary basis for purposes of research, investigations, or other reasons specified under Box 7; vehicles and equipment requiring further manufacturing operations under Box 9; and equipment subject to the Theft Prevention Standard under Box 11.
- The several hundred dealers, distributors, and individuals who import off-road vehicles such as dirt bikes and all-terrain vehicles or ATVs, as well as other vehicles that are not primarily manufactured for on-road use under Box 8.
- The several hundred nonresidents of the United States and foreign diplomatic and military personnel who temporarily import nonconforming vehicles for personal use under Boxes 5, 6, and 12.

Estimate of the Total Annual Reporting and Recordkeeping Burden of the Collection of Information in the Amended Regulations: Adding together the burden hours detailed above yields a total of 42,413 hours expended on an annual basis for all paperwork associated with the filing of the HS–7 Declaration form and other aspects of the vehicle importation program.

Estimate of the Total Annual Costs of the Collection of Information: Other than the cost of the burden hours, the only additional costs associated with this information collection are those incident to the storage, for a period of ten years, of records pertaining to the nonconforming vehicles that each RI imports into the United States.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50 and 501.8(f).

Issued on: May 8, 2007.

Daniel Smith,

Associate Administrator for Enforcement.

[FR Doc. E7–9234 Filed 5–14–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35022]

New Hampshire Central Railroad, Inc.—Lease and Operation Exemption—Line of the New Hampshire Department of Transportation

New Hampshire Central Railroad, Inc. (NHCR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease and to operate approximately 8.47 miles of rail line owned by the State of New Hampshire Department of Transportation on the Mountain Division corridor, between Engineering Station 5060+25, Valuation Section 17 NH Map 53, in Whitefield, NH, and Station 5503, Valuation Section 18 VT Map 3, in Lunenburg, VT.

NHCR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or a Class I rail carrier and will not exceed $5 million.

The earliest this transaction may be consummated is June 1, 2007, the effective date of the exemption (30 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Petitions for stay must be filed no later than May 25, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35022, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. Also, a copy of each pleading must be served on Jack E. Dodd, P.O. Box 28, Saint Albans, VT 05478.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: May 8, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–9203 Filed 5–14–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Authorization Agreement for Preauthorized Payment (SF 5510)

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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 continuing information collection. By this notice, the Financial Management Service solicits comments concerning the Form 5510, ''Authorization Agreement for Preauthorized Payment''.

DATES: Written comments should be received on or before July 16, 2007.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mike Burnum, Director, Settlement Services Division, Room 426, 401–14th Street, SW., Washington, DC 20227 (202) 874–6430.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

Title: Authorization Agreement for Preauthorized Payment.

OMB Number: 1510–0059.

Form Number: SF 5510.

Abstract: This form is used to collect information from remitters (individuals and corporations) to authorize electronic fund transfers from accounts maintained at financial institutions to collect monies for government agencies.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit, individuals or households, Federal Government.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 25,000.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget 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.

Dated: May 9, 2007.

Gary Grippo,

Assistant Commissioner, Federal Finance.

[FR Doc. 07–2391 Filed 5–14–07; 8:45 am]

BILLING CODE 4810–35–M

Federal Register

Tuesday,
May 15, 2007

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR–2007–0002, Sequence 2]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–17; Introduction

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

ACTION: Summary presentation of final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005–17. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov*.

DATES: For effective dates and comment dates, see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–17, FAR case 2004–025. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

LIST OF RULE IN FAC 2005–17

Item	Subject	FAR case	Analyst
I	Government Property	2004–025	Parnell.

SUPPLEMENTARY INFORMATION: Summary for the FAR rule follows. For the actual revisions and/or amendments refer to FAR case 2004-025.

FAC 2005–17 amends the FAR as specified below:

Item I—Government Property (FAR Case 2004–025)

This final rule amends Federal Acquisition Regulation (FAR) Part 45, Government Property, and associated FAR language and clauses to implement a policy that fosters efficiency, flexibility, innovation and creativity while continuing to protect the Government's interest. This rule simplifies procedures, clarifies language, and eliminates obsolete requirements related to the management and disposition of Government property in the possession of contractors by moving, clarifying, and deleting definitions; establishing a life-cycle approach to property management; and, sanctioning the use of consensus standards and/or industry-leading standards and practices for property management. This rule deletes outdated clauses, combines selected FAR property clauses into a single clause, and implements a new clause designed for military base and installation-level contracts awarded under the OMB Circular A–76 process. FAR language and associated clauses for special tooling, special test equipment and facilities contracts is deleted. It is not the Government's intention to change the intent or meaning of the language pertaining to ''title to Government property.''

Dated: May 2, 2007.

Al Matera,

Acting Director, Contract Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-17 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-17 is effective June 14, 2007.

Dated: April 30, 2007.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: April 27, 2007.

George Barclay,

Acting Senior Procurement Executive, General Services Administration.

Dated: April 19, 2007.

Sheryl Goddard,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 07–2257 Filed 5–14–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 7, 14, 15, 16, 17, 18, 19, 22, 28, 31, 32, 35, 37, 41, 42, 43, 44, 45, 46, 49, 51, 52, and 53

[FAC 2005–17; FAR Case 2004–025; Docket 2007–0001, Sequence 2]

RIN 9000–AK30

Federal Acquisition Regulation; FAR Case 2004–025, Government Property

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to simplify procedures, clarify language, and eliminate obsolete requirements related to the management and disposition of Government property in the possession of contractors. FAR parts are amended to implement a policy that improves the management of Government property while fostering efficiency, flexibility, innovation and creativity by adopting property practices typically used in the commercial arena while continuing to protect the Government's interest. In

addition, the rule simplifies requirements on contractors by reducing the number of FAR clauses from nineteen clauses to three overarching clauses. The final rule specifically impacts contracting officers, property administrators, and contractors responsible for the management of Government property.

DATES: Effective Date: June 14, 2007.

FOR FURTHER INFORMATION CONTACT For clarification of content, contact Mrs. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAC 2005–17, FAR case 2004–025. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense (DoD) proposed a rewrite of FAR Part 45, Government Property and associated clauses, to implement a policy that fosters efficiency, flexibility, innovation and creativity while continuing to protect the Government's interest. In the late 1990s, the DoD initiated a complete rewrite of the FAR, Part 45 and associated clauses. Beyond attempting to address long-standing property management issues, the effort reflected the general consensus that adoption of more typically commercial business practices would not only attract more commercial firms to the marketplace but also result in significant savings of acquisition dollars. For many reasons, only one of the proposed rules (Subpart 45.6) was implemented; the legalities and complexities that characterize Government property management drew out differences between the Government and industry parties, resulting in suspension of the rest of the project.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 70 FR 54878, September 19, 2005, and the public comment period closed November 18, 2005.

Forty respondents submitted two-hundred-eighty-seven comments. The two-hundred-eighty-seven comments were grouped into thirty-two categories. The Councils considered all comments and concluded that the proposed rule should be converted to a final rule, with changes to the proposed rule. Differences between the proposed rule and final rule are identified in the Summary of Changes in Section C, and discussed in the responses to the public comments in Section B.

B. Public Comments

The 287 comments received from forty respondents have been dispositioned as discussed below. The comments received were grouped under 32 general topics. A summary of the comments follows:

1. **Title.**

a. *Title to Government Property.* Fourteen comments were received from ten respondents regarding the title of Government property.

(1) Two respondents addressed the proposed FAR revision as containing an elimination of the state law ''sale for resale'' exemption for overhead property allocable to cost type contracts. The respondents stated that the proposed rule eliminates the exemption from sales and use taxes on contractor overhead property allocable to cost type contracts and should be withdrawn and full consideration given to the impact of the change.

(2) One respondent requested adding the statement to the proposed rule at FAR 52.245–1(e) ''Under cost reimbursement and cost sharing contracts'' to clarify title under cost type contracts versus fixed price contracts.

(3) One respondent requested an additional sentence be added to the title paragraph clarifying that when this clause is used with Time-and-Material (T&M) contracts, contractors shall only acquire material for direct charge to the contract.

(4) One respondent recommended the following change to clarify FAR 45.401, ''Under fixed price type contracts, the contractor retains title to all property acquired by the contractor for use on the contract, up until the time that such property is received, delivered and accepted as a part of the deliverable end-item by the Government.''

(5) One respondent recommended adding a section to address cost Contract Line Item Numbers (CLINs) under fixed price contracts in FAR 45.401(b).

(6) One respondent recommended that FAR 52.245–1(e) be revised to replace direct item of cost with, either directly or conditionally, based upon the sub paragraphs (2), (3), and (4) that followed.

(7) One respondent requested FAR 52.245–1(e) be revised to replace ''direct item of cost'' with ''either directly or conditionally based on the subparagraphs (2), (3) and (4)'' or use optional wording ''FFP and Cost-type reimbursable contracts.''

(8) One respondent recommended the retention of the current language in FAR 52.245–2 and 52.245–5 as to when title passes.

(9) One respondent requested a revision to title language referring to indirect title issues as proposed in FAR 45.401 and FAR 52.245–1(e) to clarify indirect and direct overhead property.

(10) One respondent provided the following response to the proposed rule at FAR 52.245–1, ''While the Government has not asserted title to all materials that may support the charging of indirect costs, including (for instance) office supplies (some portions of the cost of which may be allocated to a contract), we believe that financing payments normally must be secured by a title interest in contract materials. As a general rule, the value of the payments will be fairly approximated by the value of goods that are either incorporated into the end items, or consumed in their production (such as cutting materials, abrasives, special tooling, etc.). The Government's interest in such materials is not dependent on whether their costs are charged as direct or indirect costs. Sections 45.401(b) and (c), and paragraph (e) of the proposed Government Property clause, have therefore been corrected in this draft to eliminate this distinction.''

(11) One respondent provided three comments.

(i) A contract modification may not be necessary if contractor retention and use was the original intent of the contract. Requiring a modification serves no purpose. Under fixed price type contracts, the contractor retains title to all property acquired by the contractor for use on the contract except for property identified as a deliverable item. If a deliverable item is to be furnished to the contractor for use after inspection and acceptance by the Government, it shall be made accountable to the receiving contract as Government-furnished property.

(ii) Clarify the FAR to be more consistent with the current and proposed title provisions. We believe there is no intent on the Government's part or the contractor's part to change how the title provisions currently function.

(iii) Revise 52.245–1(d) and (e).

Response: The intent of 52.245–2 and 52.245–5 remains unchanged. The proposed language at 45.401 and 52.245–1(d) and (e) is revised to reflect the current language in the FAR found at 52.245–2 and 52.245–5. Administrative changes (*i.e.*, deletion of references to Special Tooling and Facilities) were made to 45.402 and 52.245–1(e)(2) and (3) in order to correlate with the final rule. Though the intent of the proposed rule was to provide clarity for title issues, the disparate public comments received gave evidence that questions still remain. Therefore, the Councils have

fundamentally retained existing FAR language under this case.

b. *Title Under Progress Payments.*

One respondent requested clarification in 52.232–16 that the Government does not take title to overhead property.

Response: The Councils do not believe the recommended change at 52.232–16 is necessary as related to this case. With respect to overhead materials, language will not be changed by the FAR Part 45 rewrite.

2. **Use of Government Property (Suitability for Use and As-Is).**

a. One respondent recommended that contractors be allowed the opportunity to inspect Government-furnished property, expected to be suitable for contract performance, after the property has been received and installed.

Response: The Councils agree that contractors should be allowed to determine whether Government-furnished property is suitable for contract performance. Therefore FAR 52.245–1(d)(3)(ii), renumbered as 52.245–1(d)(2)(ii), is revised to allow contractors the opportunity to determine whether Government-furnished property is suitable for use after receipt and installation.

b. One respondent recommended that FAR clause 52.245–1(d)(3)(i) and (ii) be revised to specify what constitutes a contractor's timely written request for equitable adjustment.

*Response:*The Councils believe the final rule language is adequate for the contractor to advise the contracting officer of Government property received in a condition not suitable for its intended use or if the property is not delivered to the contractor by the contractually required date. The rule allows flexibility in accordance with agency procedures and/or individual contract requirements.

c. One respondent recommended using original language as stated in FAR 52.245–2(a)(2) to disposition Government property not suitable for intended use. Since the property is owned by the Government, the decision concerning an appropriate action should rest with the contracting officer.

Response: The Councils believe the final rule language is sufficient for disposition of Government property not suitable for intended use. The language gives the contracting officer the flexibility when choosing a course of action to remedy the problem. FAR clause 52.245–1(d)(2)(ii) specifically states that actions may include repairing, replacing, modifying, returning or otherwise disposing of the property at the Government's expense. Upon completion of the action(s), the contracting officer shall consider an equitable adjustment to the contract.

d. Six respondents offered recommendations to the language regarding property offered ''as-is.'' The proposed rule did not address pre-contract inspection by the contractor for Government-furnished property offered in an ''as-is'' condition. This may cause adverse ramifications associated with the use of the ''as-is'' provisions.

Response: The Councils believe that the recommendation to add language addressing pre-contract inspection by the contractor for Government-furnished property offered in an ''as-is'' condition is appropriate and has added language at FAR 45.201(a)(5). The new language requires the contracting officer to include a statement in all solicitations as to whether the Government property is to be furnished in an ''as-is'' condition and provide instructions for physical inspection.

e. One respondent recommended that FAR clause 52.245–1(d)(3)(iii) be deleted in its entirety as the unilateral provisioning of ''as-is'' property is high risk to the contractor. In addition, it delays scheduling, increases cost to the contractor and to the Government and may present a costly event to the contractor should the item be determined hazardous.

Response: The Councils do not agree with the recommendation to delete the Government's option to furnish property in an ''as-is'' condition. The FAR currently provides language to provide property in an as-is condition and the Councils see no evidence to justify the removal of this language. However, the Councils recognize the respondent's concern and have mitigated the risk by revising FAR clause 52.245–1(d)(3)(iii), renumbered as 52.245–1(d)(2)(iii), to clarify that the contractor will be given the opportunity to inspect property provided in an ''as-is'' condition prior to the property being provided.

f. One respondent stated that the listing at FAR 45.201(a) should include all material information required to make an informed decision regarding Government property to be offered in solicitations in an ''as-is'' condition. The respondent recommended adding supply condition code and current location to the proposed listing.

Response: The Councils believe the list in the proposed final rule is sufficient for inclusion in solicitations where Government-furnished property is anticipated and should not be modified to add supply condition code and current location. The contractor has the right to inspect property furnished ''as-is'' and determine the condition relative to overall utility prior to the property being provided under contract as stated in the revised rule, FAR clause 52.245–1(d)(3)(iii), renumbered as 52.245–1(d)(2)(iii).

g. One respondent recommended that a reference to the Changes clause be included at FAR 52.245–1(i). The respondent further commented that the language is somewhat limiting. If a contractor relies on Government-Furnished Property (GFP) and that property is delayed, received in an unsuitable condition, substituted, etc. (see FAR 52.245–1(i)(1)-(4)), contract performance may be impacted. An equitable adjustment may not be sufficient remedy for the contractor.

Response: The Councils believe that the proposed language should not be revised to include a reference to the Changes clause nor should the equitable adjustment language be revised. A change is affected according to whether or not the contracting officer determines the necessity for such, in accordance with contract terms and conditions. Equitable adjustments require agreement by both parties.

3. **Scope.**

a. One respondent suggested the addition of a sentence to FAR 45.000, scope of part, stating that ''nothing in this part prohibits the use of a property management contract.''

Response: The FAR does not prohibit the use of a contract for performance of property management. Contracts for the performance of property management are a common form of service contracts. The Councils do not believe it is necessary to specifically state that the use of a contract for performance of property management is ''not prohibited.''

b. One respondent suggested adding language to FAR 45.000, scope of part, to specifically exclude software.

Response: While the definition of Contractor-acquired property remains unchanged, FAR 45.000 is revised to exclude software and intellectual property from this rule.

c. Three respondents suggested replacing ''plant'' or ''plant equipment'' in the parenthetical phrase in FAR 45.000.

Response: The language is revised to delete the term ''Plant equipment'' and replace it with the word ''Property'' in the parenthetical phrase in FAR 45.000. The term ''Property,'' rather than the term ''Plant equipment'' is more appropriately used because it is more inclusive and more definitive.

d. One respondent suggested that since the definition for plant equipment has been deleted, and the term ''Equipment'' has been substituted in most cases in the re-write, the all-

inclusive term ''Government property,'' as used in FAR 45.301(f) of the proposed rule, should also be replaced with the term ''Equipment'' based on the context.

Response: The term ''Government property,'' rather than the term ''Equipment'' or ''Government equipment'', is more appropriately used because it is more inclusive and more definitive.

4. **Definitions.**

a. *Acquisition Cost.*

Seven comments were received from five respondents concerning the definition of ''Acquisition cost.'' One respondent stated that the proposed definition did not provide for the use of original acquisition cost. One respondent recommended deleting the language at paragraph (2) of the definition. One respondent recommended that the definition be revised to refer to generally accepted accounting principles (GAAP), not consistently applied sound accounting principles, and asked whether Cost Accounting Standards (CAS) is applicable. One respondent stated the definition should be revised to state that the fair market value attributed to the item should be agreed upon by the parties. One respondent stated that the definition in 45.101, 52.245–1, and 52.245–9 included the term ''full cost'' which may be confusing to personnel unfamiliar with contractor's systems, *e.g.*, for equipment, acquisition cost is referred to as ''unit acquisition cost.''

Response: The Councils recognize the concerns and have revised the definition of acquisition cost that provides sufficient detail to permit application. As part of this revision, the Councils have replaced the term ''Full cost'' with ''Cost'' to avoid any potential confusion.

b. *Approved Scrap Procedure.*

One respondent recommended including a definition for ''Approved scrap procedures.''

Response: The Councils believe there is no single definition for approved scrap procedure; it will vary, dependent upon the individual contractor.

c. *Cannibalize.*

Two respondents recommended adding a definition for ''Cannibalize.''

Response: The Councils agree with the recommendation and a definition for ''Cannibalize'' is added to 45.101 and 52.245–1.

d. *Common Item.*

Two comments received from one respondent recommended the definition for ''Common item'' be deleted at 45.101 and 52.245–1(a) because it is superfluous and not used elsewhere.

Response: The term ''Common item'' is used in Part 31 and in the inventory disposal forms. However, because the term is used in more than one section of the FAR, the Councils decided the definition should be moved to Part 2.

e. *Contractor-Acquired Property.*

Two comments received from two respondents recommended revising the definition of ''Contractor-acquired property.'' One respondent recommended revising the definition as follows: ''means property acquired or otherwise provided by the contractor for performing a contract and to which the Government *has provided funding or* has title.'' One respondent recommended adding the word ''Government'' to the term to say ''Contractor acquired government property.''

Response: The Councils believe the definition is adequate as written. The definition states ''to which the Government has title'' so, there is no additional value to adding the word Government to the term.

f. *Contractor Inventory.*

Eleven comments were received from three respondents recommending changes to the definition of ''Contractor inventory.'' Four comments stated that paragraph (1) should be revised to state only: ''Any property acquired by and or in the possession of a contractor or subcontractor under a contract for which title is vested in the Government and delete the language that states: ''and which exceeds the amounts needed to complete full performance under the entire contract.'' Two comments stated the term should be changed to ''Contract inventory.'' Two comments stated that paragraph (2) should be deleted. Two comments stated that paragraph (3) should be deleted. One comment stated that term should be ''contractor property.''

Response: The term and the definition of contractor inventory reflect the statutory definition in 40 U.S.C. 472.

g. *Demilitarization.*

Five comments were received from four respondents regarding the definition of ''Demilitarization.'' One respondent stated that the definition of demilitarization was ill-suited for its intended purpose and recommended it be toned down and moved away from its military slant. Other terms suggested were disenable, neutralize, incapacitate or decommission. One respondent stated that the word ''demilitarization'' should be removed from the body of the definition. One respondent stated that the definitions in 45.101 and 52.245–1 should be revised to say ''demilitarization means rendering designated equipment or material unusable for, and not restorable to, the purpose for which it was designed or is customarily used'' by deleting the phrase ''a product designated for demilitarization.'' One respondent stated that definition needed to be revised to replace ''product designated for demilitarization'' with ''equipment and material.''

Response: The definition is revised to remove the words ''designated for demilitarization,'' but the Councils did not concur with substituting ''equipment or material'' with ''disenable, neutralize, incapacitate or decommission.'' Demilitarization is a term of art specific for military purposes and denotes more requirements than are implied by the suggested terms.

h. *Discrepancies Incident to Shipment.*

Four comments were received from three respondents to revise the definition of ''Discrepancies incident to shipment'' to mean any difference between the items documented to have been shipped and items actually received.

Response: The Councils agree with the suggested revisions and the definition is revised in 45.101 and 52.245–1.

i. *Equipment.*

Three comments were received from three respondents to revise the definition of ''Equipment.'' One respondent stated the phrase ''in-and-of-itself'' is limiting, the statement on the expected useful life is superfluous and the phrase ''does not lose its identity or become a component part of another article when put into use'' creates confusion. One respondent stated ''in-and-of-itself'' should be replaced with ''functionally complete for its intended purpose.'' One respondent stated special tooling should be a subset of equipment.

Response: The Councils agree that the phrase ''in-and-of-itself'' should be revised and replaced it with ''functionally complete for its intended purpose,'' but there are instances where a piece of equipment becomes part of a higher assembly, so that distinction is necessary.

j. *Government-Furnished Property.*

Two comments were received from one respondent to revise the definition of ''Government-furnished property'' to be consistent with the Unique Identification (UID) requirements by adding the phrase ''is a subset of property in the possession of a contractor (PIPC),'' in both 45.101 and the clause at 52.245–1.

Response: The Councils do not believe the additional language is necessary and does not add clarity. UID is a unique DoD initiative, and the term

PIPC is a DoD unique term, and therefore are not appropriate for inclusion in the FAR.

k. *Industry Leading Standard or Practice.*

One respondent stated that there should be a definition for ''Industry leading standard or practice'' added to the clause at 52.245–1.

Response: The Councils believe that the term is a commonly used term and is meant to convey industry strategies and processes that are quantifiably and qualitatively demonstrated to be top performing.

l. *Information Technology Equipment.*

Two comments were received from one respondent stating that a definition should be added for ''Information Technology Equipment (ITE)'' in 45.101 and the clause at 52.245–1.

Response: A definition of information technology exists in 2.101 and captures information technology equipment within that definition.

m. *Material.*

Two comments were received from one respondent to revise the definition of ''Material'' to be more in line with the concept that tangible personal property is either material or equipment and to remove the exclusions of special tooling, special test equipment and unique Federal property, in 45.101 and in the clause at 52.245–1.

Response: The Councils believe special tooling and special test equipment are still valid classifications and the exclusion still applies. Unique Federal property may be applicable at an agency level. The term ''Unique Federal property'' was removed from the final rule language.

n. *Non-severable.*

Two comments were received from one respondent to substitute the word construction for erection in the definition of ''Non-severable'' in both 45.101 and the clause at 52.245–1.

Response: The definition is revised because the Councils believe that ''construction'' provides a better description.

o. *Personal Property.*

Two respondents stated that there is no definition for ''Personal property'' and a definition should be included here.

Response: The definition for Personal property can be found in 2.101.

p. *Property in the Possession of Contractors (PIPC).*

One comment was received stating there needed to be a definition for ''Property in the Possession of Contractors (PIPC).''

Response: An additional definition is not necessary because this is not a term used in the FAR.

q. *Plant Clearance Officer (PLCO) and Property Administrator (PA).*

Four comments were received from two respondents regarding revisions to the definition of ''Plant Clearance Officer'' (PLCO) and ''Property Administrator'' (PA). One respondent stated that PLCO and PA should be defined in the same place and that the word ''assigned'' should be revised to read ''appointed'' in both definitions because they both must have a certificate of appointment. One respondent stated that the revisions to the PLCO definition appear to redefine the duties of the PLCO and proposed a revised definition as ''an authorized representative of the contracting officer appointed to disposition property accountable under Government contracts.'' One respondent stated that the definition should be left as is.

Response: The definitions of PLCO and PA were revised to replace the word ''assigned'' with ''appointed'' in FAR 2.101 (PLCO), 45.101 (PA) and 52.245–1 (PA). The Councils believe the proposed revision most accurately reflects the duties and authorities of the appointed individual. PLCO is defined in FAR 2.101. PA is only used in 45 and is therefore inappropriate to be defined in FAR 2.101.

r. *Provide.*

Two comments were received from one respondent recommending that the definition of ''Provide'' should be consistent with the Defense Federal Acquisition Regulation Supplement (DFARS) 245.301 definition.

Response: The definition of ''Provide'' is revised in the final rule at 45.101 and 52.245–1.

s. *Real Property.*

Two comments were received from one respondent stating that the definitions for ''Real property'' should be moved from 45.101 and 52.245–1 to 2.101.

Response: The Councils believe that the definition for ''Real property'' is more appropriate in Part 45 because this definition relates to property management and may conflict with the use of the term as used elsewhere in the FAR. The final rule retains the current FAR Part 45 definitions of Real property and Plant equipment. The proposed rule included a revised definition of Real property in FAR Part 45, and also deleted the definition of Plant equipment. However, upon further review, the Councils are concerned that removing the term ''Plant'' from ''Plant equipment'' may inappropriately narrow the definition of Real property. The current definition states that Real property does not include the foundations and work necessary to install plant equipment. Plant equipment is currently defined as encompassing only Personal property. However, the term ''Equipment'' can encompass both Real and Personal property. Thus, the Councils believe it is advisable to retain the current definitions of Real property and Plant equipment. However, in Section 45.000, Scope of part, the Councils believe that the term ''Property'' is more appropriate than ''Plant equipment'', *i.e.*, the distinction between Real and Personal property is not relevant in the context of this particular section.

t. *Scrap.*

Two comments were received from two respondents stating that the proposed rule does not provide a definition of ''Scrap.''

Response: FAR Part 2 includes a definition of scrap.

u. *Sensitive Property.*

One respondent stated that the definition of ''Sensitive property'' should include *sensitive and classified information*.

Response: A revision to the definition of ''Sensitive property'' is not necessary. The proposed rule applies only to tangible property and does apply to information such as software or intellectual property.

v. *Special Tooling and Special Test Equipment.*

Four comments were received from four respondents regarding the use of the terms ''Special Tooling (ST)'' and ''Special Test Equipment (STE)'' and the location of the definitions. One respondent stated that if the ST and STE clauses are being deleted, then the terms should be deleted as well. One respondent asked whether Part 2 was going to be revised to include the definitions of ST and STE, since it does not currently. One respondent stated that ''replacement of these items'' should be deleted from the definition of Special tooling.

Response:Even though the clauses for special tooling and special test equipment are being deleted, the terms are still appropriate classifications. The definitions of ST and STE are included in the proposed rule under Part 2. The Councils agree that the phrase ''replacement of these items'' should be deleted from the special tooling definition in FAR 2.101 and has revised the definition accordingly.

w. *Stewardship.*

Two respondents stated that the revised rule should include a definition of ''Stewardship.''

Response: The Councils believe the term is a common dictionary term and does not need to be defined.

x. *Surplus Property.*

Two comments were received from one respondent stating the definition of ''Surplus property'' should be revised in both 45.101 and 52.245–1 to state ''excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA) or as delegated.''

Response: GSA has not delegated the authority to determine that items are surplus to the Government.

y. *Unique Federal Property.*

Two comments were received from one respondent stating that ''Unique Federal property'' is a subset of equipment and the definition of ''Unique Federal property'' should be revised to replace the term ''Personal property'' with ''Equipment'' in both FAR 45.101 and the clause at 52.245–1.

Response: ''Unique Federal property'' is not exclusively a subset of equipment. ''Unique Federal property'' may include equipment and other classifications of personal property. However, the definition is deleted because it is not used in the prescriptive language or in the clause.

z. *Voluntary Consensus Standards.*

One respondent stated that definition of ''Voluntary consensus standards'' should be the same as the definition in OMB Circular A–119.

Response: The definition is based on the definition in OMB Circular A–119 and is tailored to the requirements of FAR Part 45.

aa. *Work In Progress (WIP).*

One comment was received regarding the addition of a definition for ''WIP,'' in both Part 45 and the clause at 52.245–1.

Response: The term ''WIP'' is not used in Part 45, and therefore, there is no need to define the term.

5. **Policy.**

a. One respondent stated that the FAR should provide a more detailed explanation of what is needed for a contracting officer to provide property.

Response: FAR 45.102(b) sets forth overall requirements that must be met for contracting officers to make a determination to furnish Government property. Any further details are subject to Agency policies and procedures.

b. One respondent suggested the Councils clarify the intent of the requirement that contracting officers ''provide property to contractors only when it is clearly demonstrated.''

Response: The proposed language in FAR 45.102(b) sets forth clear requirements regarding what must be demonstrated in order for contracting officers to provide Government property. To further define these requirements would hinder contracting officers' flexibility in making informed business decisions in the best interest of the Government.

c. One respondent questioned how contracting officers are supposed to calculate the cost of administration etc. under FAR 45.102(b)(2).

Response: Calculating the cost of administration should be considered on a case by case basis and in accordance with Agency procedures and individual contractual circumstances and requirements.

d. One respondent questioned what is meant by the phrase ''increase the Government's assumption of risk'' under FAR 45.102(b)(3).

Response: The Government's assumption of risk is not specifically defined since the FAR cannot predict all aspects of risk. Such aspects may include, but are not limited to, successful contract completion, loss of Government property, national security, etc. To further define these requirements would hinder contracting officers' flexibility in making informed business decisions in the best interest of the Government.

e. Two respondents were concerned that the proposed rule will make furnishing property to contractors much easier administratively, and consequently will result in more Government property being furnished to contractors.

Response: The language allows contracting officers, the flexibility to make appropriate business decisions regarding their contracts. This may include the provision of property, but only when it is in the best interests of the Government.

f. One respondent stated that FAR 45.103 also defines Voluntary consensus standards and as such, they embrace this concept whole-heartedly. The respondent suggested that for consistency, it would make sense to use the verbiage as spelled out in FAR 11.101(c).

Response: Section 11.101 provides guidance for the use of Voluntary consensus standards. To restate such guidance would be redundant. The definition of Voluntary consensus standards was added to 2.101 in the proposed rule and is based on the definition in OMB circular A–119.

6. **General.**

a. One respondent stated that it may be difficult to estimate Government-Furnished Property (GFP) utilization over a 5 or 10-year contract period and recommended that allowances be made for revisiting the timely turn-in of excess property, where exceptional circumstances exist.

Response: In order to ensure maximum practical use of the property and timely disposition of excess property, the Councils believe the final rule language found at FAR 45.103(a)(6), which requires contractors to justify retaining Government property not needed for contract performance, is necessary. It should be noted that the prescriptive language would be subject to agency procedures.

b. One respondent suggested that FAR 45.103(a)(2) be divided into two separate requirements, as the subject matter is not related.

Response: The Councils agree with the respondent and has revised FAR 45.103(a)(2) to make two separate requirements. As a result, proposed paragraphs (3), (4), and (5) have been renumbered in the final rule as (4), (5), and (6). In addition, the invalid reference to 45.602 has been deleted.

c. One respondent questioned what possible justification could a contractor provide to substantiate keeping Government property not required for performance of a Government contract.

Response: Normally Government property is returned to the Government. Contractors are required to justify retention of Government property not needed for contract performance in order to ensure maximum practical use of the property and to ensure timely disposition of excess property. There are several instances in which it is in the Government's best interest for contractors to retain Government property (*e.g.*, future procurements and spare part procurements, medical studies and industrial readiness).

7. **Industry Leading Standards and Practices.**

a. One respondent, with respect to 45.103, asked who sets the ''Leading Industry Standards.''

Response: An ''Industry leading'' standard is meant to convey industry strategies and processes that are both quantifiably and qualitatively demonstrated to be top performing within a given industry.

b. Two respondents, with respect to the Background Section of the **Federal Register** Notice, stated that it is unclear how the use of commercial practices will apply to the management of Government property under Government contracts especially when contractors do not provide their own property to other contractors under their contracts.

Response: Contractors are not necessarily being asked to provide processes for contractor-to-contractor relationships. Rather, contractors are being required to apply the same industry leading standards or voluntary

consensus standards that they use to manage their own property.

c. One respondent stated, with respect to 45.103, that voluntary consensus standards currently in print would not be efficient to protect the Government's interest. An area that is unclear is whether contractors will be required to go to a voluntary consensus standard if for the past twenty years the contractor's property control system has met or exceeded the requirements of FAR Subpart 45.5. If contractor metrics ASTM, ISO, etc., are used by the Government to monitor contractor compliance, what precedent does the FAR, DoD Supplement, and DoD Manual have in relationship to the contractor based metric?

Response: The effectiveness of Voluntary consensus standards is well established; their use is prescribed in OMB Circular 119 and in FAR Part 11. The proposed rule included the requirement for consistent application of prescribed outcomes.

d. One respondent stated that the use of industry-leading standards and practices versus the previous standard of sound industrial practices imposes a hardship on small business.

Response: The Councils believe that the rule allows small businesses to use industry practices instead of Government imposed standards and is therefore less burdensome. Industry leading practices are not an exclusive purview of large business. The rule balances regulation with principle-based standards that allow for minimal regulatory requirement and greater flexibility and efficiency to achieve best value for the Government.

e. One respondent asks, ''How are contracting officers to be aware of industry leading practices? Will the council direct the creation of new Defense Acquisition University (DAU) courses specifically for this purpose?''

Response: The Councils believe that contracting officers are professionals in their fields of acquisition and are capable of accessing the necessary information from various sources applicable to their respective fields. The Councils will work with DAU to determine if and to what extent course revisions or new courses are required.

8. **Insurance and Indemnification (FAR 31.205–19).**

Three respondents requested a change to the use of ''undue'' and ''theft'' in regard to FAR 31.205–19. One respondent recommended a revision of paragraph 31.205–19(e)(2)(iv) to (1) remove ''Government has determined'' and replace with the ''contracting officer has made a final determination,'' and (2) to use ''material risk'' instead of ''undue risk.'' The respondent stated that ''materiality'' is defined in FAR 30.602 (48 CFR 9903.305), and (3) remove the word ''theft.'' The respondent stated that the word ''loss'' is still listed, and theft is just one specific type of ''loss.'' The addition of the word ''theft'' here and in other parts of the re-write is redundant. Two respondents recommended that the word ''undue'' be replaced with ''material'' in FAR 31.205–19(e)(2)(iv) per the definition in 30.602, and both respondents recommended deleting the word ''theft'' as it is a subset of loss and should be deleted in FAR 31.205–19(e)(2)(iv) and in FAR 32.502–16 risk of loss.

Response: The Councils disagree with the recommendation to replace the term ''Undue'' with ''Material'' and have removed the language from this Subpart. The Councils did not agree with the deletion of the word ''theft'' because it denotes a specific meaning. In addition, the Councils believe that the term ''Government'' allows the Government decision maker greater flexibility than use of the term ''final determination.''

9. **Theft.**

Nine comments were received from one respondent recommending omitting the word ''theft'' from various parts and clauses in the proposed rule.

- One respondent recommended eliminating the word ''theft'' from FAR 45.104(a). The elimination would be consistent with prior comments on damage, or destruction, of Government property.
- One respondent recommended eliminating the word ''theft'' from FAR 52.245–1(f)(1)(vi)(A). The following change was suggested for ''Loss, damaged, or destruction. Unless otherwise directed by the Property Administrator, the contractor shall investigate and promptly furnish to the Property Administrator, a written narrative of all incidents of loss, damage, or destruction, as soon as the facts become known or when requested by the Government. Such reports shall, at a minimum, contain the following information....''
- One respondent recommended eliminating the word ''theft'' from FAR 52.245–1(f)(1)(vi)(B) and provided the suggested language as follows: ''The contractor shall take all reasonable actions necessary to protect the Government property from further loss, damage, or destruction. The contractor shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.''
- One respondent recommended eliminating the word ''theft'' from FAR 52.245–1(f)(1)(vi)(C) and provided the following suggested language: ''The contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damaged, or destruction, of Government property.''
- One respondent recommended eliminating the word ''theft'' from FAR 52.245–1(f)(1)(x) and suggested replacing with the following language: ''The contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss, damage, or destruction, cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.''
- One respondent recommended eliminating the word ''theft'' from FAR 52.245–1(h) and suggested language as follows: ''Contractor liability for government property. (1) Unless otherwise provided for in the contract, the contractor shall not be liable for loss, damaged, or destruction to the Government property furnished or acquired under this contract, except when any one of the following applies:''
- One respondent recommended eliminating the word ''theft'' from FAR 52.245–1(h)(1)(ii) and the suggested language as follows: ''The loss, damage, or destruction, is the result of willful misconduct or lack of good faith on the part of the contractor's managerial personnel. Contractor's managerial personnel, in this clause mean the contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the contractor's business; all or substantially all of the contractor's operation at any one plant or separate location; or a separate and complete major industrial operation.''
- One respondent recommended eliminating the words ''theft and undue'' from FAR 52.245–1(h)(1)(iii). The respondent also recommended eliminating the words ''Clear and convincing evidence,'' because the standard places an undue burden on Government contractors. The suggested change provided by the respondent is as follows: ''The contracting office has, in writing, withdrawn the Government's assumption of risk for loss, damage, or destruction, due to a determination under paragraph (g) of this clause that the contractor's property management practices are inadequate, and/or present

a material risk to the Government, and the contractor failed to take timely corrective action. If the contractor can establish that the loss, damage or destruction of Government property occurred while the contractor had adequate property management practices, or the loss, damage, or destruction of Government property did not result from the contractor's failure to maintain adequate property management practices, the contractor shall not be held liable.''

• One respondent recommended eliminating the word ''theft'' from the proposed rule at FAR 52.245–1(h) and the suggested language as follows: ''The contractor assumes the risk of, and shall be responsible for, any loss, damage, or destruction, of Government property upon its delivery to the contractor as Government-furnished property. However, the contractor is not responsible for reasonable wear and tear to Government property properly consumed in performing this contract.''

Response: The Councils concluded that the word ''theft'' would not be deleted from the FAR due to the specific meaning associated with the word.

10. **Responsibility and Liability.**

a. One respondent recommended that procedures be added at FAR 45.102 for the flow of accountability for Government- Furnished Property (GFP) from a contractor back to the Government, with the Government organization in possession of the GFP having liability for the GFP, or alternatively that clarification be added that GFP provided to a contractor is for the sole use of the contractor in meeting the requirements of the contract, and not as a repository for Government property intended for actual use by the Government.

Response: Since procedures do exist in Agency directives and in individual contracts on the accountability of GFP, which is used by the Government, it is not necessary to prescribe procedures for such an event in the FAR. Liability and accountability are not synonymous and are addressed separately in the FAR. A contractor could serve as a repository for Government property, depending on contract requirements.

b. One respondent asked, what does ''revoke Government's assumption of risk'' at FAR 45.104(b) entail, and why would this compel compliance?

Response: Since revocation justification information would be set forth in agency procedures, it is not necessary to prescribe this information in the FAR. Revocation would compel compliance because contractors would then be financially liable for loss, damage, destruction, or theft.

c. One respondent stated that FAR 45.104(b) contains two separate thoughts and recommended that it be divided into two separate paragraphs (b) revocation and (c) dealing with prime and subcontractor risk of loss relationships.

Response: Paragraph is revised to reflect suggested structure.

d. One respondent recommended adding or reinstating language that is substantially similar to the current FAR 45.103(c) to proposed FAR 45.104, in order to be consistent with the proposed FAR clause 52.245–1(h). The current FAR 45.103(c) states that ''the contract may require the contractor to assume greater liability for loss of or damage to Government property than that contemplated by the Government property clauses....''

Response: The Councils believe the liability provisions in proposed FAR 45.104 are sufficient to protect the Government's interest.

e. One respondent recommended that at FAR 45.105(b) the contractor rather than the Government provide the schedule for the correction of deficiencies to a contractor's management of property, since the contractor is in a better position to establish such a schedule. The respondent stated that a contractor-developed schedule would assist in correcting root causes rather than achieving a quick fix.

Response: The Councils believe that a Government provided schedule is necessary to ensure the correction of contractor deficiencies that place the Government at risk, within a reasonable period.

f. Two respondents recommended replacing the word ''undue'' with ''material'' in FAR 45.105(b), and change the wording to ''shall request from the contractor prompt correction of deficiencies and a schedule for their completion.''

Response: The Councils concluded that the term ''undue'' is better suited to the context of the prescriptive language. The Government must retain the right to determine the scope and schedule of any corrective actions for a contractor deficiency that puts the Government at risk.

g. One respondent recommended changes to FAR 52.245–1(g)(3) to allow for resolution where the contractor does not believe direction provided by the property administrator would result in the best value for the Government. The respondent suggested replacing the word ''undue'' with ''material'' and the addition of the following sentence:

''In instances where the contractor does not concur with the corrective actions suggested by the Property Administrator, differences will be resolved with consultation with the contracting officer.''

Response: The term ''undue'' is better suited to the context of the clause. The Councils believe that it is unnecessary to specifically state that consultation with the contracting officer is required. Communication between the Government and the contractor should take place throughout contract performance.

h. One respondent recommended replacing the word ''undue'' with ''material'' in FAR 45.104(b), as material can be quantified by industry writings and documents and the word undue is purely subjective

Response: The term ''undue'' is better suited to the context of the clause.

i. The respondent suggested adding the following language to 52.245–1(h):

''The prime contractor shall enforce for the benefit of the Government any liability that the subcontractor may have for loss, damage, destruction, or theft of Government property.''

Response: The language provided for subcontractor controls is sufficient. The prime contractor has the right to enforce remedies against their subcontractors. The Government does not prescribe prime contractor remedies.

11. **Subcontractor.**

a. One respondent recommended that instruction to the contractor related to subcontractor control be removed from 45.501 and be added to the clause at 52.245–1(f)(1)(v).

Response: The Councils revised the language in Subpart 45.5 and added language at 52.245–1(f)(1)(v).

b. Two respondents recommended that the language at 52.245–1(f)(1)(v) be revised to remove the language related to cost savings.

Response: The paragraph is revised to read, ''The contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions, *e.g.*, extent of liability for loss, damage, destruction or theft of Government property.'' The language related to cost savings is removed.

c. Two respondents recommended language related to the flow down of the appropriate assumption for risk of loss, damage or destruction to subcontracts. One respondent questioned the effect of the language regarding flow down of risk of loss to subcontractors.

Response: FAR 52.245–1(f)(1)(v) allows for flow-down to subcontractors. Limited risk of loss is added as an example. The paragraph is revised to read, ''The contractor shall award subcontracts that clearly identify assets

to be provided and shall ensure appropriate flow down of contract terms and conditions, *e.g.*, limited liability for loss, damage, destruction or theft of Government property.''

d. One respondent stated that the language at 52.245–1(f)(1)(v)(B) was vague because it did not assign responsibility for accomplishing reviews of subcontractors and providing determinations related to those reviews.

Response: The language assigns responsibility to the prime contractor for performance of subcontractors, including the performance of Government property management functions. The language provides the contractor the flexibility to determine the most appropriate method for accomplishing those reviews and obtaining subcontract compliance.

e. One respondent recommended the deletion of 52.245–1(f)(1)(v)(A) and 52.245–1(f)(1)(v)(B) because methods of subcontract property management would be included in the prime's property plans.

Response: Paragraph A will not be deleted but the language is revised for clarity. This language and practice protects the Government's interest. Paragraph B will not be deleted because this language and practice, as well, protects the Government's interest.

12. **Contractor Property Management System.**

a. One respondent submitted two comments in regard to 45.105. The respondent suggested that FAR 45.105 should be renamed ''Analysis and correction of contractor's property management system'' and that notification to the contractor for the withdrawal of assumption of risk should be by certified mail.

Response: The heading in FAR 45.105 is changed to ''Contractor's property management system compliance.'' This is a more meaningful heading, consistent with the spirit of the respondent's comment. Any additional requirements for certified mail notification would be addressed in Agency procedures.

b. One respondent recommended that ''In areas where the FAR requires a response, a suggested time frame for responses should be stated (*i.e.*, within 10 business days).''

Response: Specifying an exact number of days would limit flexibility. However, Agencies may require specific timeframes in their agency procedures and in accordance with specific issues.

c. One respondent recommended that after initial contract award, verification of the existence of inventory systems be done by exception. Requiring routine verifications places an unnecessary additional burden on the contracting officer without a just cause to suspect the initial is faulty or not in use.

Response: The respondent suggests a risk-based approach to system analysis; the proposed rule does not prohibit such an approach. Current language allows agencies maximum flexibility in conducting system analysis.

d. One respondent recommended that FAR 45.105(b) be revised so that the contracting officer and not the property administrator is the official requesting/directing correction of deficiencies.

Response: The Property Administrator performs the analysis of the contractor's system, and so is in the best position to request/direct the contractor on correction of deficiencies.

e. One respondent recommend that the language be changed at FAR 45.105(b)(3) to state, ''other rights or remedies available to the contracting officer under the contract.''

Response: The Councils revised language at FAR 45.105(b)(3) to state ''other rights or remedies available to the contracting officer.'' In addition, FAR 45.105(b)(3) is renumbered as 45.105(b)(2) in accordance with another recommendation.

f. One respondent recommended changing the wording at FAR 45.105(b) to delete the words ''shall provide'' from the phrase ''shall provide a schedule for their completion'' which would allow the contractor to propose a schedule for corrective action instead of the Government.

Response: A definitive action and a schedule for completion of corrective actions are reasonable and mitigate risk to the Government.

g. One respondent recommended a requirement to maintain utilization data similar to that of FAR 45.509–2(b)(2) be reinstated.

Response: The current rule allows for the flexibility of data retention. FAR 45.105 allows contractors and property administrators to establish methods to ensure property is fully utilized.

h. One respondent recommends adding language to provide the option for the Property Administrator to request the contractor submit (by a specific date) a corrective action plan. As written, FAR 45.105(b) requires the Property Administrator to provide the contractor with a schedule for completion of corrective action.

Response: Definitive action and schedule of corrective actions needs to be defined by the Government for a contractor deficiency that puts the Government at risk. The FAR does not prohibit Property Administrators from negotiating a schedule and corrective action.

i. One respondent recommends adding language in the clause at 52.245–1(b)(1), ''except where inconsistent with law or regulation'' after the words ''property management''.

Response: FAR 52.245–1(b)(1) is revised to add ''except where inconsistent with law or regulation'' after the words ''property management.''

13. **Contract Price Adjustment.**

Three respondents made three comments recommending the deletion of ''contract price adjustment'' as one of the examples of corrective action if a contractor does not correct property management system deficiencies or suggested including enablers in the FAR clause 52.245–1 for contracting officers to effect a price adjustment.

Response: FAR 45.105(b)(1) is deleted and the remaining paragraphs renumbered because it would be difficult for contracting officers to quantify a contract price adjustment associated with the failure to correct a property management system deficiency.

14. **Relief of Responsibility.**

a. Two respondents requested addition of language that describes the conditions and circumstances under which a property administrator could grant contractors relief of accountability and responsibility.

Response: Language is added to 45.105(d) and 52.245–1(f)(1)(vii)(A) to describe the conditions and circumstances under which a property administrator could grant contractors relief of accountability and responsibility.

b. One respondent requested language to set a threshold for automatic relief of responsibility based on the contractor's property plan.

Response: The Government intends to retain the authority to determine whether or not to grant relief of responsibility for loss, damage, destruction or theft. The Councils do not believe thresholds are advisable. The determination of relief of responsibility should be determined on a case-by-case basis.

15. **Transferring Accountability.**

a. One respondent requested clarification and additional language for warranty of Government-furnished property acquired or fabricated initially by the contractor.

Response: Language is added at 52.245–1(d) and 45.106 to provide for the inapplicability of warranties of suitability of use and timely delivery of Government-furnished property to property acquired or fabricated initially by the contractor, and subsequently transferred to another contract with this contractor.

b. One respondent requested that consideration might be given to adding guidance as to which contractor, gaining or losing, would typically absorb (or bill for) the cost of the property transfer.

Response: The language as written allows flexibility. Costs for the property transfer are covered under FAR Part 31.

c. One respondent stated confusion between 52.245–1(d)(4)(i) and 45.106. 52.245–1 states the contracting officer may by written notification, at any time increase or decrease the amount of Government-furnished property under this contract. FAR 45.106 states such transfer shall be documented by modification to both gaining and losing contracts.

Response: The coverage in FAR 45.106 (Transferring Accountability) is the policy for transferring Government-furnished property from one contract to another. The clause at 52.245–1(d)(4)(i) provides for the increase or decrease in the amount of Government-furnished property.

d. One respondent stated that requiring formal modifications to transfer property between contracts is incompatible with the FAR principle of minimizing administrative cost. The respondent has suggested that there should be another administrative mechanism to accomplish this effort more efficiently that satisfies the desired outcome. Current practice only requires a contract modification to the gaining contract. The respondent recommended the use of Wide Area Work Flow (WAWF) for such transfers.

Response: A contract modification is the only authority to affect the transfer of Government property between contracts.

16. **Contract Clauses.**

a. Two respondents made three comments that recommended clarification of the prescription and use of the clauses provided in 45.107. Respondents recommended several changes regarding the use of the contract clauses including: the concurrent use of FAR clauses 52.245–1, Government Property, and 52.245–2, Government Property Installation Operations for Services; the mandatory use of FAR clause 52.245–9, Uses and Charges, in all solicitations and contracts that furnish or authorize the acquisition of Government Property; and the recommendation to add language regarding the appropriate use of FAR clause 52.245–1 in FAR Part 12 solicitations and contracts.

Response: The Councils believe that the recommended clarifications are appropriate and have revised FAR 45.107(a)(1)(iii), 45.107(b), 45.107(c), 45.107(d), and 52.245–2 to incorporate the recommended revisions.

b. One respondent recommended that the language found at 45.107(d) be changed to clarify the use of Government property clauses in purchase orders for property repair.

Response: The Councils agree the language should be clarified, and revised FAR 45.107(d) with some editorial changes to the respondent's recommended language.

c. One respondent recommended the Government property clause not be included in all cost reimbursement, time-and-material, and labor-hour solicitations and contracts, especially in service contracts where property is not involved or where the contractor supplies all required property.

Response: Due to the uncertainties involved in cost-reimbursement, time-and-material, and labor-hour contracts, and the fact that each contract has the potential for Government property, the Councils believe it is in the Government's best interest to include the Government property clause in those solicitations and contracts.

d. One respondent recommended the prescriptive language at FAR 45.107(b) specifically limit FAR clause 52.245–2 to fixed price contracts.

Response: The FAR clause 52.245–2 was created for use in solicitations and contracts for Installation Operation Services. This type of effort can be contracted using a fixed price arrangement or a cost-reimbursement arrangement.

e. One respondent recommended a Fixed Price with Cost CLINs contract type be listed among the types of contracts because fixed price contracts may contain cost-reimbursement type contract line items.

Response: The Councils believe the prescriptive language sufficiently addresses all FAR types of contracts, which are grouped into two broad categories (fixed price and cost-reimbursement). It is not necessary to name a combination of types.

f. One respondent questioned where the definition of ''Simplified acquisition threshold'' could be found in the FAR.

Response: The simplified acquisition thresholds are defined in FAR 2.101.

g. One respondent recommended the reference to FAR 35.014 be deleted from FAR 45.107(a)(3) as it is slated for removal, as stated in **Federal Register** Volume 70, Number 180, dated September 19, 2005 (FAR Case 2004–025).

Response: FAR 35.014 is not being deleted in its entirety, however, paragraph (e) is revised to delete references to outdated property clauses and to remove references to facilities clauses.

17. **Solicitation and Evaluation Procedures.**

a. One respondent recommended that a clause be established, or the current clause be modified, to provide the list of requirements found at FAR 45.201(a) when it is anticipated that Government-Furnished Property (GFP) will be provided.

Response: The Councils do not believe that an additional clause is necessary. The proposed FAR clause 52.245–1, paragraph (f)(1)(iii) requires the contractor to create and maintain records of all Government property, including GFP. The clause also requires the contractor to maintain certain information in the property record (paragraph (f)(1)(iii)(A)) which the Councils consider to be adequate for tracking GFP.

b. One respondent recommended Contract-Acquired Property (CAP) be identified by the contractor, and contracting officer approval be obtained prior to acquiring CAP.

Response: The Councils believe the proposed property rewrite is adequate and flexible enough to allow the contracting officer to establish solicitation requirements to sufficiently comply with FAR 45.102 and 45.105. Many times CAP cannot be identified at the time of award.

c. One respondent recommended changes to 45.201(b) to eliminate predetermined contractual requirements, as the requirements may be counter to seeking best value.

Response: FAR 45.201(b) states that ''in a competitive acquisition, solicitations should specify that the contractor is responsible for'' all costs related to making the property available for use - and it is generally in the Government's best interest to allow contractors to assess transportation, installation or rehabilitation costs. However, the language is flexible enough to allow contracting officers to adjust the requirements.

18. **Use and Rental.**

a. One respondent recommended exclusion of Government-owned, contractor operated plants operating on a cost-plus-fixed-fee basis from rental charges.

Response: The Councils agree with the recommendation to change FAR 45.301(b) to remove the exception for Government-owned, contractor-operated plants operating on a cost-plus-fixed-fee basis from rental charges. The language in the final rule is revised accordingly.

b. One respondent stated FAR 45.303(b) conflicts with Cost Accounting Standards 420 and the

contractor's disclosure statement. The conflict will cause confusion and extraordinary administrative burden to the contractor and the Government as consideration for rental costs is required under FAR clause 52.245–9, Uses and Charges.

Response: The Councils recognize the concern and have revised the language to preclude ''reimbursement'' rather than not permitting the costs to be ''charged.''

c. One respondent recommended deletion of FAR 45.303(c).

Response: The Councils believe the language at FAR 45.303(c) is necessary because the rental charge protects the interest of the Government when independent research and development costs are allocated to commercial contracts. It should be noted that the original language is retained and relocated from 45.406(c) to 45.303(c) and the reference for computing rent is updated in the final rule.

19. **Support Property Administration.**

a. One respondent observed that the task of support property administration involves more than subcontractors.

Response: FAR 45.501 is revised to add language for clarification that the coverage includes subcontractors and prime contractor alternate locations.

b. Four respondents requested more clarification regarding the process for contracting officer action when a prime contractor rejects a request for support property administration.

Response: The language at 45.501(b) is renumbered as 45.502(a) and clarified to state that the prime contractor must agree to allow support property administration. However, the process can vary by agency and is most appropriately addressed in agency regulations.

c. Three respondents suggested changes to the language of 45.501 that would place the responsibility for initiating a request for support property administration with the prime contractor rather than the property administrator. The respondents suggest that the initiation of this action by the property administrator may exceed the scope of contract privity.

Response: The Councils do not completely agree. However, FAR Subpart 45.5 has been revised to clarify support Government property administration. This is not a privity of contract issue since the prime contractor still has responsibility for proper administration of Government property. The Government must have the right to inspect, review and assure that Government property is properly managed by the prime contractor regardless of location.

d. One respondent recommended that 45.501(b) and (c) be modified to allow a team approach to deciding whether or not support property administration is necessary and for resolution of other disputes when the prime does not agree.

Response: Ultimately, the responsibility for protecting the public's interest in Government property resides with the Government. A contractor disagreement with the Government's resolution is covered by the disputes clause.

e. One respondent recommended that FAR 45.501(d) be deleted, citing concerns that the prime contractor's property administrator is forced by the language to accept a support property administrator's findings.

Response: The prime contractor has responsibility for proper administration of Government property. However, the Government must have the right to inspect, review and assure that Government property is properly managed by the prime contractor regardless of location. FAR Subpart 45.5 has been revised to clarify support Government property administration.

20. **Use of Government Property.**

a. One respondent believes that there is confusion regarding the treatment of Government property (such as desks, computers, phones etc.) that remains under the Government's control as Government-furnished property subject to the requirement in FAR 45. They do not believe that the intent of the revision is to cover the aforementioned circumstances. If this is in fact correct, then the respondent believes this should be made clear. However, if this interpretation is incorrect, then they recommend a third alternate to the clause at 52.245–1, or a new clause, that specifically addresses the contractor's use of Government property that never leaves the Government's possession and for which the Government retains responsibility.

Response: Use of property by contractors performing on a Government installation does not meet the typical meaning of Government provided or furnished property. The Government retains responsibility for accountability, security, use, maintenance, and disposal of this property. Therefore, a third alternate to 52.245–1 is not necessary.

b. One respondent recommended revising FAR clause 52.245–1(c) to enable the contracting officer to effectively use discretionary authority without having to modify the contract. Such approvals are generally considered routine and administrative in nature, and the requirement to modify the contract in all such instances is considered to be an undue administrative burden.

Response: FAR 52.245–1(c) does not require modification to the contract to obtain contracting officer approval. The contracting officer has the discretion as to whether a contract modification is necessary.

21. **Inventory Systems.**

One respondent believes that maintaining a separate property system for the management of Government property is an onerous burden on contractors and recommended that the proposed language be changed to allow contractors to use Government systems for the management of property when the systems exist and the records are already in the systems.

Response: Neither the current or proposed rules require contractors to establish separate property systems for the management of Government property, only that their systems meet minimal standards for protection of the Government's interest. In fact, contractors are encouraged to use the same property systems they use for their own property to manage Government property. Furthermore, contractors may use existing inventory systems to manage Government property under certain circumstances (GOCO's).

22. **Inventory Thresholds.**

Three respondents provided three comments regarding establishment of value thresholds for recording and reporting Government property.

a. One respondent commented that requiring recording of low dollar value equipment is not cost effective.

Response: Voluntary consensus standards and leading industry practices allow for the creation of summary records and recording of items in quantity rather than individually, based on the requirements of the contract. Also, reporting of contractor inventory for possible, alternative use by the Government or eligible donees is required by law, whenever the property is no longer required for contract performance. Without some form of records, it would be difficult or impossible to comply with this legal requirement.

b. One respondent stated that the use of voluntary consensus standards and sound business standards would be a major improvement for managing Government property if contractors didn't have to account for all Government owned property upon completion or termination of a contract. Contractors typically do not tag and record contractor owned equipment under their depreciation threshold.

Response: Reporting of contractor inventory for possible, alternative use

by the Government or eligible recipients is required by law, whenever the property is no longer required for contract performance. Without some form of record, it would be difficult or impossible to identify the available property and comply with this legal requirement.

c. One respondent expressed concern that contractors should be accountable for all Government property in their possession for the protection of the taxpayers' interests.

Response: The proposed rule establishes minimal standards within the clause and allows for flexibility for both the Government and the contractor to implement processes and practices to mitigate risk to the Government associated with the provision of property.

23. **Physical Inventory**.

a. Two comments questioned ambiguity of instructions regarding requirements for timing of physical inventories. One of these also questioned testing for unauthorized use.

Response: Physical inventory requirements cannot be reduced to a one-size fits-all regulatory requirement. The requirements contained in the clause are substantially the same as the current FAR. Physical inventory practices are complex, and can be effectively accomplished using a number of different techniques and practices. Effective physical inventory performance is not dependent solely on timing. Best physical inventory practices consider a variety of factors such as the value and sensitivity of the inventory, the number of transactions posted against the item's record, prior evaluations of record accuracy, and the results of prior physical inventories. Physical inventory practices should be included in the contractor's property management plan, based on the type of property, the scope of the procurement, and other factors. Unauthorized use of Government property will continue to be tested during Property Management System analysis.

b. One respondent recommended removal of all language requiring physical inventories, stating that this could be addressed within a contractors' property management plan.

Response: Physical inventories are the primary tool used to establish the existence of property and the completeness of Government property records. As such, they serve as the ultimate test of property record accuracy. They support both property management and financial reporting requirements. This language and practice protects the Government's interest.

24. **Property Management.**

a. Two respondents recommended adding ''procedures'' after the word 'systems' in the third sentence of the clause at FAR 52.245–1(b)(1) for clarification.

Response: The Councils agree and FAR 52.245–1(b)(1) is revised accordingly.

b. One respondent recommended revising FAR 52.245–1(f)(1) to add the word ''procedures'' to the first sentence in (f)(1) after the word ''system.''

Response: The Councils agree and FAR 52.245–1(f)(1) is revised accordingly for clarification.

c. One respondent recommended adding the word ''move'', *i.e.*, ''consume, MOVE and store...'' to FAR 52.245–1(f)(1)(viii).

Response: The Councils agree and FAR 52.245–1(f)(1)(viii) is revised accordingly for clarification.

d. One respondent recommended adding the words ''including the multi-part assets'' at FAR 52.245–1(b).

Response: The Councils do not believe additional language is necessary; the proposed language includes ''all'' property.

e. One respondent recommended revising 52.245–1(f)(1)(viii) to add the following at (B) ''unless otherwise authorized in this contract or by the Property Administrator the contractor shall not commingle Government property with property not owned by the Government.''

Response: The Councils agree and FAR 52.245–1(f)(1)(viii) is revised to include new paragraph (B) for clarification.

25. **Systems Analysis.**

a. One respondent recommended revising language at FAR 52.245–1(g) to include access to all Government property as well as premises.

Response: The Councils agree and FAR 52.245–1(g) is revised to require access to all Government property as well as premises.

b. One respondent recommends revising FAR 52.245–1(g)(1) to read as follows: ''The Government shall have access to the contractor's premises, at reasonable times, for the purposes of reviewing, inspecting and evaluating the contractor's Government property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.''

Response: The Councils agree to revise FAR 52.245–1(g)(1) to add the words ''plan'' and ''that pertains to Government property'', to clarify that the focus is on Government property only. However, the Councils do not agree with the recommendation to add ''Government'' as this would imply a separate system is required for management of Government property.

26. **Contractor Plans and Systems.**

a. One respondent recommends clarification of FAR 52.245–1(f)(1)(ii) to require identification of Government property by adding an addendum ''physically identify the property as Government property with an appropriate identification, *e.g.*, stamp, tag, mark or other identification that is legible, conspicuous and securely affixed.''

Response: The Councils agree that, in some instances, appropriate identification is necessary. However, the Councils also believe the recommend language is overly broad. Therefore, FAR 52.245–1(f)(1)(ii) is revised to clarify the identification of Government property.

b. One respondent recommended revising FAR 52.245–1(f)(1) to add a new paragraph as follows: ''The contractor shall disclose significant changes in its property management system to the Property Administrator 30 Days prior to implementation.''

Response: The Councils agree that contractors should be required to disclose significant changes to its property management system. FAR 52.245–1(b)(1) is revised. However, the Councils do not believe that a specific number of days should be specified. Contractors should notify the Government as soon as they become aware that significant changes will be made to their property management system.

c. One respondent recommended revising FAR 52.245–1(f)(1)(ii)(A) to add ''The contractor shall report all discrepancies pertaining to the shipment, packaging, or transportation of Government-furnished property in accordance with agency procedures.'' In addition, the respondent recommends adding the following language, ''Upon request from the contractor, the property administrator may assist and coordinate resolution of unresolved discrepancies.''

Response: Additional prescriptive language is not necessary. Assisting and coordinating resolution of unresolved discrepancies is a normal part of the property administrator's duties and does not need to be specified in the FAR.

d. Two respondents recommended revising FAR 52.245–1(f)(1) to delete paragraphs (i) and (ii). The wording is redundant to 52.245–1(b)(1) and prescriptive in nature. In addition the respondents recommend inserting at 52.245–1(b)(1) ''The contractor shall have a system to manage (acquire, receive, control, utilize, preserve, protect, move, repair, maintain, dispose

and report) Government property in its possession.''

Response: The Councils do not agree. The language at FAR 52.245–1(f)(1)(i) and (ii) is retained to protect the Government's interest.

e. One respondent recommended revising FAR 52.245–1(f)(1)(i) to add ''of the prime contractor'' after ''disclosure statement.''

Response: The reference to ''cost accounting disclosure statement'' was removed.

27. **Records.**

a. One respondent recommended changing the phrase ''all Government property accountable to the contract'' at FAR clause 52.245–1(f)(1)(iii) to ''all Government property in the contractor's possession, regardless of value.'' The respondent used the example of a logistics services operation where receipt, storage, loan and issue of Government property on a continuing basis is the primary function of the contract and that the contractor should not be required to maintain records of the property that was not specifically furnished to the contractor under the contract.

Response: The Councils believe that if a contract is for the storage, maintenance and issue of Government property, then the property should be listed on the contract and accountable to the contract and records maintained by the contractor.

b. One respondent stated that with the elimination of the language at the current FAR 45.105, it appears that it may now become necessary for the Government to maintain its own official property records separate from the contractor's records. This respondent asked whether the contractor's records are still intended to serve as the Government's official property records. The respondent stated that if this is the case then those records should be clearly and concisely defined in the FAR.

Response: The Councils do not agree. Only the Government can keep the Government's ''official'' records. The Government will maintain their own Government property records. However, custodial records must be maintained by the contractor.

c. One respondent recommends that at ''FAR clause 52.245–1(f)(iii)(A)(3),'' unit acquisition cost be revised to add ''(or reasonable estimate if definite unit cost cannot be obtained)'' because obtaining the actual unit cost of minor contractor fabricated items that must be identified and controlled is, at times, not practical or possible.

Response: The Councils do not agree. Contractors' accounting systems should have actual unit cost information available. Therefore, no change to the final rule is necessary.

d. One respondent states that while the Government does not specify a numbering system for items of property, the implementation of a consistent numbering system by contractors is critical and recommends that it should be added to the data elements set forth at FAR clause 52.245–1(f)(1)(iii)(A).

Response: The Councils believe that a numbering system is but one of many industry leading practices and does not need to be identified in the clause.

e. One respondent states that the term ''Receipt and issue'' is not clear at FAR clause 52.245–1(f)(1)(iii)(B). This respondent recommended adding a heading, ''Use of a receipt and issue system for Government material,'' and modifying the word ''formal'' to ''stock record'' or ''perpetual inventory property record.''

Response: The Councils agree with the title addition. However, the Councils do not agree with the proposed revision to ''stock record'' or ''perpetual inventory property record'' because the term ''formal record'' is more encompassing and does not specify a particular recording system.

f. One respondent recommended adding acquisition contract number to the required fields at FAR clause 52.245–1(f)(1)(iii) to assist in the audit trail to validate correct ownership.

Response: The Councils believe that this information is not necessary and that the clause is sufficient for audit purposes.

g. One respondent recommended that FAR clause 52.245–1(f)(1)(viii) specify what constitutes prompt reporting.

Response: The Councils do not agree. As soon as the contractor determines that the property is no longer required for contract performance, they must report to the Government. The rule allows flexibility in accordance with agency procedures.

h. One respondent recommended that FAR clause 52.245–1(f)(1)(viii) specify what constitutes a prompt disclosure.

Response: The Councils do not agree. As soon as the contractor determines that the property is no longer required for contract performance, they must report it to the Government. The rule allows flexibility in accordance with agency procedures.

i. Two respondents recommended that the requirements at FAR clause 52.245–1(f)(3) be revised to clearly indicate access to a contractor's internal audits and reviews will be limited to information related directly to Government property.

Response: The Councils do not completely agree. The proposed rule provides access to the results of the contractors' internal audit of property relevant to a specific Government contract or groups of Government contracts. The recommended limitations would be inconsistent with FAR 52.215–2. However, FAR 52.245–1(f)(3) is revised to include ''significant findings'' and ''audits pertaining to Government property'' which provides access to findings and/or results of reviews related directly to Government property.

j. One respondent asks what does ''posting reference'' and ''date of transaction'' mean at FAR clause 52.245–1(f)(1)(iii). The respondent suggests clarifying them to respectively read ''the document that caused the transaction'' and ''the date the transaction occurred.''

Response: The Councils believe the terms ''posting reference'' and ''date of transaction'' are self-explanatory.

k. One respondent states that the requirements at FAR clause 52.245–1(f)(1)(i) on documenting the acquisition of property are too prescriptive in light of the requirements for a property management system at paragraph (b)(1) of the same clause.

Response: The Councils believe that this documentation is necessary to protect the Government's interest.

l. One respondent states that the requirements at FAR clause 52.245–1(f)(1)(i) on documenting the receipt of Government property are too prescriptive in light of the requirements for a property management system at paragraph (b)(1) of the same clause.

Response: The Councils believe that this documentation is necessary to protect the Government's interest.

m. One respondent states that the requirements at FAR clause 52.245–1(f)(1)(ii)(A) on procedures for reporting damages/discrepancies upon the receipt of Government-furnished property to the Property Administrator are too prescriptive in light of the requirements for a property management system at paragraph (b)(1) of the same clause. The respondent further states that such reporting is currently handled through the Government's Report of Discrepancy (ROD) form issued as required. The respondent also states that the ROD is processed per the ROD instructions, and that resolution of this type of issue is a contracts/quality/program office issue.

Response: The Councils do not agree. The Councils believe these procedures are necessary to protect both the Government's interest and the contractor's interest. The final rule language also protects the contractor in

terms of timeliness, availability, and possible liability for the property being furnished.

n. One respondent stated that in the data elements for property records under FAR clause 52.245–1(f)(1)(iii)(A)(1) that not all property has a ''commercial part number,'' that ''Bulk identifier'' is covered by ''Unit of measure,'' and that not all property has a ''model number.'' The respondent recommends substituting the following language, ''The name, commercial part number, if provided, and description, manufacturer, model/part number, and National Stock Number (if needed for additional item identification tracking and/or disposition).'' Another respondent recommended that the term ''bulk identifier'' be clarified.

Response: While the Councils do not agree with the specific recommended language, for clarification purposes the final rule is revised at 45.201(a)(1) and 52.245–1(f)(1)(iii)(A)(*1*) to replace ''commercial part number'' with ''part number'' and remove ''bulk identifier.''

o. One respondent recommended revising the term ''acquisition cost'' for the property records data element at FAR clause 52.245–1(f)(1)(iii)(A)(*3*) because it may be confusing to personnel unfamiliar with contractors' systems. This respondent states that ''unit acquisition cost'' is the more appropriate data element for the clause.

Response: No action is necessary. The term for the data element at FAR clause 52.245–1(f)(1)(iii)(A)(*3*) is ''unit acquisition cost'' rather than ''acquisition cost.'' This respondent referenced the same comment for FAR clause 52.245–1(f)(1)(iii)(A)(*3*) and FAR clause 52.245–1(a)(1) which does contain the term ''Acquisition cost.''

p. One respondent recommended deleting the property records data element ''date placed in service'' at FAR clause 52.245–1(f)(1)(iii)(A)(*10*) for production material or non-capitalized items, citing needless, significant cost impact for system and process changes.

Response: The Councils believe the data must be required, unless otherwise determined by the Property Administrator. Capital equipment and real property requires ''date placed in service'' for accounting purposes. Agencies have different capital thresholds; therefore, the property administrator is in the best position for making these decisions.

q. One respondent recommended not requiring the approval at FAR clause 52.245–1(f)(1)(iii)(B) of the Property Administrator for contractors to maintain in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption, particularly in the case of non-production contracts, engineering studies, and low dollar research and development efforts. The respondent suggested the following substitute language ''In accordance with a contractor's property plan, the contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.''

Response: The Councils believe the Property Administrator must approve receipt and issue records on a case-by-case basis. Receipt and issue systems may put the Government at risk and the Property Administrator is in the best position to determine the level of risk the Government is willing to accept. Property Administrator approval and the plan are not mutually exclusive. The contractor must identify in the proposed plan any requirement for receipt and issue.

28. *Reports.*

a. One comment from one respondent recommended that the language at 52.245–1(f)(1)(vi)(B), (C), and (D) be moved to 52.245–1(h)(2), (3), (4), and (5) renumbered. The language was actually instructions to the contractor on how to store, protect and manage property that had been damaged or destroyed, not on the preparation of reports.

Response: The Councils agree. Language is moved from 52.245–1(f)(1)(vi)(B), (C), and (D) to 52.245–1(h)(2), (3), (4) and (5) renumbered for clarification.

b. Three comments were received from a single respondent.

(1) The first comment recommended adding the language, ''The type, frequency and reporting format will be agreed upon between the contractor and property administrator'' to the physical inventory reporting section at 52.245–1(f)(1)(iv) of the clause.

Response: The Councils do not believe that the recommended language should be accepted. Both industry leading standards and practices and voluntary consensus standards recognize the importance of physical inventories. Both include methods to perform them and to disclose their results. As a result, responsible contractor property management plans should include the format for disclosing physical inventory results and the timing of those disclosures. If these plans lack this, agencies will have the opportunity to review and recommend appropriate revision of plans prior to contract inception. However, the language of 52.245–1(f)(1)(vi) requires that contractor systems are capable of providing results of physical inventories and the final language at 52.245–1(f)(1)(iv) is revised to require disclosure of the results of the physical inventory.

(2) A second comment was received from the same respondent, recommending that the proposed clause at 52.245–1(f)(1)(vi) be revised to include direction to subcontractors in the preparation of reports of loss, damage or destruction of Government property.

Response: The Councils do not completely agree. The Government's contractual relationship remains with the prime contractor. Property is provided to the prime contractor for performance of the contract. Should the prime contractor further provide the Government property to a subcontractor, the prime retains responsibility for the compliance with contract terms and conditions and for obtaining any necessary information for the reports from subcontractors. However, the language of the clause at 52.245–1(f)(1)(v) is revised to require appropriate subcontractor flow down of contract requirements.

(3) A third comment recommended adding information to reports of loss, damage or destruction regarding the last known location of the property, whether or not the property was sensitive or hazardous and whether or not the agencies involved had been notified of the loss or theft.

Response: The Councils agree. FAR 52.245–1(f)(1)(vi) is revised to add paragraphs (12) and (13) to add language for last known location and a statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

b. One respondent submitted two comments related to reports. One recommended clarification of the report requirement at 52.245–1(f)(1)(vi) by changing the language to read: ''(vi) Reports. The contractor shall have a process to create and provide reports such as discrepancies; loss, damage and destruction; physical inventory results; audits and self-assessments; corrective actions; and other property related reports relevant to the contract as directed by the contracting officer.''

Response: The Councils do not completely agree. 52.245–1(f)(1)(vi) is revised to clarify the lead-in language for examples of reports to be provided by the contractor. The Councils believe the phrase ''relevant to the contract'' is not necessary, as all reports are relevant to the contract.

c. The respondent also suggested that a standard form be developed for reporting Lost, Damaged, or Destroyed (LDD) property in concert with Plant Clearance Automated Reutilization Screening System (PCARSS) changes.

Response: The Councils do not believe it is necessary to develop standard forms for reporting LDD property. Information required for a LDD report need not be submitted on a standard form. In addition, the FAR does not mandate the use of PCARRS. PCARRS is a Department of Defense electronic system and not all non-DoD agencies may have access to that system.

29. **Annual Reports.**

One respondent stated that the requirement for an annual report is essential. Agencies have a continued need to collect and report the value of Government property associated with existing contracts as part of their financial statements and the associated audits. FAR should require contractors to submit an annual report.

Response: The final rule contains a requirement for the contractor to be able to produce ''property'' reports. The timing and format for such reports will be defined by Agencies.

30. **Disposal.**

a. One respondent requested that the proposed rule accommodate Plant Clearance Automated Reutilization Screening System (PCARSS) and allow submission of a SF 1428 or electronic equivalents.

Response: The FAR does not mandate the use of PCARRS. PCARRS is a Department of Defense electronic system. Non-DoD agencies may not have access or choose not to use that system. Agencies may provide electronic equivalents as needed.

b. One respondent recommended deletion of the language ''by the plant clearance officer'' at FAR clause 52.245–1(j) because many contracts are not delegated for property management or for plant clearance and therefore do not have a plant clearance officer identified.

Response: The plant clearance officer is an authorized representative of the contracting officer and is appointed the responsibility of directing the disposal of contractor inventory from a contractor's plant or work site. In the absence of a delegation to a Plant Clearance Officer, the contracting officer would retain those responsibilities. The Councils believe the language in the final rule is adequate for contractor inventory disposal.

c. One respondent stated the contractors scrap plan/agreement should cover all items that would generally be produced under the contract and there would be no need to require disposition schedules if disposition guidance is covered in the contract, via the scrap procedure. In addition, plans approved by the contracting officer may be developed with more expertise and understanding of the contractual requirements than those considered necessary by plant clearance officers. The respondent recommends revising the language at FAR clause 52.245–1(j)(1)(A) to add ''is not covered under the contractor's property plan'' to the last sentence of the paragraph.

Response: The Councils do not believe the recommended language should be added to the FAR. The proposed rule did not change the original disposal requirements. The risk associated with possible improper disposition of sensitive property or property requiring demilitarization necessitates Government oversight, notwithstanding whether disposal of the property is covered in the contractors' property plan.

d. One respondent recommended adding ''overhaul, repair'' to the description of services generating scrap. In addition the respondent recommended deletion of the inventory disposal schedule requirements list at FAR clause 52.245–1(j)(1)(B). Individual contracts should address disposition of aircraft parts under such contracts. The propose rule is contrary to current practices under long-term arrangements.

Response: The Councils do not believe the proposed rule is contrary to current practices, as the original disposal requirements for scrap resulting from other than production or testing have not changed. Proper disposition of scrap that is created from overhaul/repair is addressed at FAR 52.245–1(j)(1). The final rule is appropriate for disposal of scrap.

e. One respondent stated that internal contractor screening should occur before items are processed through plant clearance. The respondent recommended revising the language at FAR clause 52.245–1(j)(2) to add ''under this contract or other contracts'' for predisposal requirements.

Response: The Councils believe the final rule language is adequate and should not be changed to add contractor internal screening requirements. Contractor-acquired property is accountable to individual contracts and the recommended revised language would be redundant. Predisposal requirements allow Government visibility for the use of property on other contracts or for other Government use. In addition, FAR 45.106 sets forth the policy for transfer of Government property between Government contracts.

f. One respondent recommended that ''customary'' be deleted from the language at FAR clause 52.245–1(j)(2)(ii) because it was redundant. By definition, a practice is done customarily.

Response: While the word ''customary'' may seem redundant when used with respect to all contractors, the final rule uses the word to refer to practices that are considered to be ''customary'' to that specific supplier. The Councils believe that the final rule provides clear guidance regarding predisposal requirements.

g. One respondent recommended revision of FAR clause 52.245–1(j)(2)(iii) because it was redundant with 52.245–1(j)(2)(i) and (ii).

Response: FAR clause 52.245–1(j)(2)(iii), renumbered as 52.245–1(j)(2)(ii), provides instructions for reporting property not included earlier in paragraph (j)(2). Therefore, the language is not considered to be redundant.

h. One respondent recommended deletion of FAR clause 52.245–1(j)(3)(iii)(A) through (G). Individual schedules are no longer required per FAR Subpart 45.6 for termination inventory.

Response: The Councils believe that separate schedules are required for disposal of different types of property. Prior revisions to FAR Subpart 45.6 eliminated duplicate reporting forms. However, unless the Plant Clearance Officer has agreed otherwise or the contract requires electronic submission, the contractor shall prepare separate inventory disposal schedules for different types of property, using the Standard Form 1428, Inventory Disposal Schedule.

i. One respondent recommended a revision of FAR clause 52.245–1(j)(3)(iv) to delete the first sentence and replace with ''The contractor shall describe the property consistent with the requirements contained in FAR 52.245–1(f)(1)(iii).''

Response: Understanding the intended use or possible use of an item allows the Government to facilitate reutilization, transfer, or donation potential. Therefore, the Councils believe the final rule is adequate as written.

j. Two respondents recommended revisions to FAR clause 52.245–1(j)(4)(i) to provide an extension period for submitting inventory disposal schedules for screening and to remove reference to performance on the specific contract. The recommended changes will allow enough time for contractors to generate inventory schedules and to conduct

internal screening with other site contracts.

Response: The Councils believe the 30-day period allowed for submission of inventory disposal schedules to the plant clearance officer is reasonable. It should be noted that the original FAR disposal requirements have not changed. Regarding other site contracts, property is accountable to a specific contract and the contractor must make a determination that the Government property is no longer required for performance of that contract. FAR 45.106 prescribe the policy for transferring Government property between contracts.

k. One respondent recommended revisions to FAR clause 52.245–1(j)(6), removing the specific timeframe of 10 days for notification in order to enable reutilization of Government property within the contract. Post submission adjustments normally occur on an exception basis and timing is not usually controllable. The respondent also recommended elimination of plant clearance officer approval prior to withdrawal.

Response: The Councils believe the notification timeframes and approvals stated in the final rule are reasonable to flexibly manage post submission adjustments, *e.g.*, to rescind actions that have occurred subsequent to acceptance of the inventory disposal schedule.

l. One respondent recommended FAR clause 52.245–1(j)(7)(ii) be deleted and replaced with, ''The contractor shall notify the Plant Clearance Officer when property that is on a plant clearance case is relocated prior to final disposition instructions.'' The respondent believes contractors are already required to have a system in place to manage movement and storage of Government property.

Response: The Councils believe it is necessary for the contractor to obtain the plant clearance officer's approval before removing Government property from the premises in order to protect the interest of the Government in managing and tracking Government property. It should be noted that the proposed rule did not change the original storage requirements.

m. One respondent recommended changing the title and language of FAR clause 52.245–1(j)(8)(i) to read ''scrap disposition instructions'' and ''inventory schedule or scrap list'' because an inventory schedule can be a scrap list.

Response: The Councils believe disposition instructions include more than ''scrap'' and the recommended language would be too broad.

n. One respondent recommended revising the language at FAR clause 52.245–1(j)(9) to read ''contract property'' instead of ''Contractor inventory.''

Response: The Councils believe the term ''Contractor inventory'' has a specific meaning under statute and is relevant to the clause language.

o. One respondent recommended deleting FAR clause 52.245–1(j)(10), subcontractor inventory disposal schedules, because it limits the prime contractor's ability to minimize administrative costs. The prime should be able to delegate the submission of subcontractor inventory schedules directly to the plant clearance officer, as currently allowed in PCARSS.

Response: The Councils believe the FAR language for obtaining subcontractor inventory disposal schedules is necessary and should not be deleted. The language assigns responsibility to the prime contractor for performance of subcontractors, including the submission of subcontractor inventory disposal schedules. The language does provide the contractor the flexibility to determine the most appropriate methods for ensuring subcontractor performance.

Abandonment of Government Property

p. Two respondents recommended adding language to FAR clause 52.245–1(k)(1) and (k)(2) to prevent abandonment of Government property on a Federal installation.

Response: The Councils believe that policy relevant to preventing abandonment of Government property on a Federal installation would be more appropriately covered in agency procedures and not in the FAR because the cost of disposal is typically a local issue.

q. Two respondents submitted three recommendations to revise FAR clause 52.245–1(k)(1) to remove the word ''sensitive'' and require mutual consent for abandoning any Government property.

Response: The Councils believe the abandonment of sensitive Government property must be coordinated and managed in a manner that protects the interest of the Government. There are times when it is more advantageous to the Government to abandon Government property, *e.g.*, estimated cost to sell the property is greater than the proceeds from the sale, and the Government may do so in accordance with FAR 45.604–2.

r. One respondent suggested deleting part of the language at FAR clause 52.245–1(k)(3) stating, ''The Government has no obligation to restore or rehabilitate the contractor's premises under any circumstances;'' because it is overly restrictive.

Response: The Councils believe the language regarding abandonment of Government property stating that the Government has no obligation to restore or rehabilitate the contractor's premises under any circumstances is not overly restrictive. While the Government is not under obligation to restore or rehabilitate the contractors premises, there are situations which the Government may consider on a case by case basis where an equitable adjustment may properly include restoration or rehabilitation costs (see FAR clause 52.245–1(k)(3)). The language is necessary to protect the interest of the Government.

s. One respondent asked how the contracting officer will know the ''authorized'' law or regulation governing the disposition of property. The respondent requests that the Councils explain the rule or give reference to the law or regulation.

Response: The FAR (specifically FAR Subpart 45.6) provides regulatory guidance sufficient for the administration of the law.

t. One respondent stated that the proposed amendment does not address the disparity in the disposition of excess/surplus property in the possession of a Federal Agency and the same type of property in the possession of a contractor.

Response: There is no disparity in the disposition of excess/surplus property in the possession of a Federal Agency or contractor. However, the FAR provides an opportunity for the contractor to purchase contractor-acquired inventory, at acquisition cost, prior to the property being declared excess.

31. **Property Classification (Facilities, Special Tooling, Special Test Equipment).**

a. One respondent supports the elimination of the 1989 version of the special tooling clause, which is currently in the FAR. However, the respondent does not support elimination of the 1984 version of the special tooling clause that the Department of Defense is using through a Deviation that has been in force and effect since 1990. This protects the Government from multiple purchases of unidentified special tooling and should be retained.

Response: The Councils do not agree. If needed, Special Tooling (ST) may be obtained as a deliverable under a Contract Line Item (CLIN).

b. One respondent recommended redefining the term ''facilities'' in FAR Part 2 to mean real property.

Response: The Councils do not agree that the term ''facilities'' should be redefined in Part 2 to mean ''real property.'' The term ''facilities'' is broader than the term ''real property'' since it can also include equipment and utility services. However, the Council deleted the term ''facilities'' as it relates to facilities contracts. Where the term ''facilities'' is used to reference Government property, the term is substituted with ''Government property.''

c. One respondent stated that ''if the Special Tooling clause is eliminated, additional language should be added at 52.245–1 to either: 1) include a provision directing the contractor to submit a final list of acquired Special Tooling to the contracting officer for review, 60 days prior to contract completion, identifying those tools that have not become obsolete. The contracting officer will issue a modification, adding a Contract Line Item for those items of Special Tooling, and corresponding tool drawings (electronic or physical), required by the Government as deliverable end items, or 2) include a provision giving the Government unlimited rights to the tool drawings (electronic or physical) produced in performance of the contract.''

Response: The Councils do not agree. If needed, special tooling may be obtained as a deliverable under a contract line item number.

d. One respondent stated that they currently have a facilities type contract and having that type contract in place saves the Government both time and money. Property on this contract supports over 150 Government tasks, across multiple agencies. The elimination of the facilities use type of contracts will have a negative effect on how we currently manage Government property.

Response: The Councils do not agree. A ''facilities contract'' is merely a form of service contract for property management. Agencies are not prohibited from issuing service contracts for this purpose.

e. One respondent proposed that service contracts have a standard template of terms and conditions for the management of Government property for consistency through the various agencies.

Response: The Councils do not agree. Terms and conditions are negotiated on a contract by contract basis to provide flexibility to both Government and contractor communities rather than prescriptive or proscriptive processes and requirements.

f. One respondent agreed with the deletion of the Special Tooling clause.

Response: The Councils agree.

g. One respondent stated that the Councils should carefully consider the impact of the elimination of facilities use contracting on tenant use agreements entered into under the authority of the Armament Retooling and Manufacturing Support (ARMS) Act.

Response: The Councils do not agree. A ''facilities contract'' is merely a form of service contract for property management. Agencies are not prohibited from issuing service contracts for this purpose.

h. One respondent does not agree with the elimination of the Special Test Equipment clause.

Response: The Councils do not agree. Screening of Special Test Equipment prior to acquisition is no longer feasible or practical because the Government no longer centrally manages Special Test Equipment.

i. One respondent does not agree with the elimination of the Special Tooling clause, especially right to title language. Air Force Equipment Management System (AFEMS) has been mandated for managing and tracking all Government owned tooling, which allows the Air Force to comply with CFO reporting requirements. Most of the AFEMS data requirements for tooling mirror the data requirement in the Special Tooling clause.

Response: The Councils do not agree. If needed, special tooling may be obtained as a deliverable under a contract line item. Reporting requirements may be imposed on a contract-by-contract basis dependant on performance requirements.

j. One respondent recommended that the Special Tooling clause be retained.

Response: The Councils do not agree. If needed, Special Tooling may be obtained as a deliverable under a Contract Line Item.

32. **Miscellaneous.**

a. *OMB Approvals.* One respondent stated that FAR 1.106 should be changed to match the proposed rule.

Response: FAR 1.106, which lists OMB approvals under the paperwork reduction act, should reflect the proposed rule. However, the Councils believe no further change is necessary, as the revision was accomplished in the proposed rule.

b. *Closeout.* One respondent requested moving paragraphs (2) and (3) from FAR 52.245–1(f)(1)(x) as it does not belong under property closeout to paragraph (f) Contract plans and systems.

Response: The Councils do not agree. Paragraphs (2) and (3) are not part of (f)(1)(x); they are (f)(2) and (f)(3) and contain higher-level clausal language to support contract property closeout and are properly located under paragraph (f).

c. *Awards Under A–76.* One respondent stated that with the emphasis directed at awards under the A–76 process, consideration might be given to providing property accountability guidance relative to the different types of service providers (as opposed to merely contractors) that may be selected under A–76.

Response: The Councils do not agree. Property management for property in the custody of the Government is covered under the Federal Management Regulation and specific agency regulations. A–76 competitions that are won by commercial firms become contracts that are subject to FAR.

d. *Use of Government Sources.* One respondent stated that FAR 51.106(b) references an old clause that the proposed rule eliminates, and recommended that the final rule be updated to reflect the appropriate reference.

Response: The proposed rule updated the reference cited at FAR 51.106(b) to read ''52.245–1'' and no further change is necessary.

e. *Service Contracts.* One respondent requested that sample language be provided for use of Government property in services contracts when Government personnel will be maintaining records/inventories of the ''provided property.''

Response: The Councils do not agree. The statement of work should reflect the individual requirements of the agency. Agencies may choose to provide examples within Agency policies and training materials.

f. *Inter-work Transfer Agreements (IWTAs).* One respondent asks, ''Should IWTAs be addressed somewhere? Are all of the branches from a corporation really to be considered alternate locations?''

Response: The Councils do not agree. The Government does not use these types of documents.

g. One respondent supports the regulation as is.

Response: Noted.

C. Summary of Proposed Rule Changes

The Team made the following changes to the proposed rule as a result of the public comments and Team deliberations:

Facilities contracts:

The final rule reflects the following changes and includes administrative changes as a result of the deletions of ''facilities contracts'' (ref: FAR Case 2005–008, Use of Facilities Contracts):

Revised or deleted FAR 4.703(b)(3), 4.804–4(b), 7.105(b)(14), 14.502(b)(2), 15.209(b)(2), 15.404–1(e)(1), 15.407–2(e)(1), 15.407–4(a)(1) and (c)(1), 15.605(b)(4), 16.302(b), 16.307(a)(1), (b), (d), (e)(1), (f)(1), (g)(1) and (2), (h), and (i), 17.603(a)(5), 19.803(b)(2), 19.1103(b), 19.1307(c), 22.405, 22.407(d), 31.106, 32.403(c), 32.407(c), 32.704(a)(1), 32.705–2(a), (b) and (c), 35.014(e), 35.017(a)(2), 37.101, 41.102(b)(6), 41.701(b), 42.302(a)(30), 42.1102, 42.1107, 42.1305(c) and (d), 43.205(b)(5), 44.101, 44.202–2(a)(2) and (10), extensively throughout Part 45 and especially Subpart 45.3, 46.310, 49.505, 51.107, 52.215–2 Alternate I, 52.216–11, 52.216–12, 52.216–13 and Alternate I, 52.216–14, 52.222–17, 52.232–20, 52.232–21, 52.242–16, 52.243–2 Alternate IV, 52.243–4, 52.246–10, 52.249–11, 52.249–12, 52.249–13, 52.249–14, and 52.251–1 Alternate I to remove any references to ''facilities contracts.''

Changes to definitions:

Revised the definition of ''Acquisition cost'' in 45.101, 52.245–1, and 52.245–9 for compliance with Generally Accepted Accounting Principles.

Revised 45.101 and 52.245–1 to include a definition of ''Cannibalize''.

Moved the definition of ''Common item'' from 45.101 and 52.245–1 to 2.101.

Revised the definition at 52.245–1 of ''Contractor's management personnel'' to add paragraph (3) to be consistent with the same definition at 45.101.

Revised the definition of ''Demilitarization'' in 45.101 and 52.245–1.

Revised 45.101 and 52.245–1 for the definition of ''Discrepancies incident to shipment'' to clarify that it means any differences between items shipped and items received.

Revised 45.101 and 52.245–1 to clarify the definition of ''Equipment''.

Revised 45.101 and 52.245–1 to replace ''erection'' with ''construction'' in the definition of ''Non-severable''.

Retained the definition of ''Plant equipment'' in 45.101 and added the definition in 52.245–1 and 52.245–9.

Revised the definition of ''Property Administrator'' in 45.101 and 52.245–1 and Plant Clearance Officer in 2.101 to change ''assigned'' to ''appointed.''

Revised 45.101 and 52.245–1 for the definition of ''Provide'' to clarify when property is Government-furnished or contractor-acquired.

Retained the definition of ''Real property'' in 45.101, 52.245–1, and 52.245–9.

In the definition of ''Sensitive property'' at 45.101 and 52.245–1, removed the example of classified property.

Revised 2.101 definition of ''Special tooling.'' to remove references to ''replacement'' and ''unique Federal property''.

Deleted the definition for ''Unique Federal property'' from FAR 45.101 and 52.245–1, and references to it in the definitions of ''Material'' and ''Special tooling''.

In 2.101 added example of international voluntary consensus standard making bodies in the definition of ''Voluntary consensus standards''.

Other changes:

Revised 31.205–19(e)(2)(iv) to clarify the allowability of the cost of insurance for the risk of loss, damage, destruction or theft of Government property.

Revised 32.503–15(b)(1) to make an editorial change.

Revised 45.000 to clarify language regarding management and use of Government property; to replace the term ''Plant equipment'' with the term ''Property''; and to exclude software and intellectual property and the scenario for which the Government has acquired a lien or title to property solely because of performance-based payments from the scope of this subpart.

Revised 45.102 to set forth the exception for property furnished for repair or overhaul to requirements that must be met for contracting officers to make a determination to furnish Government property.

Revised FAR 45.103(a)(2) to correct a formatting error. As a result, subparagraphs (3), (4), and (5) have been renumbered as (4), (5), and (6).

Revised FAR 45.103(a)(3) to remove the invalid reference to FAR 45.602.

Revised 45.104(b) to identify two issues: (1) the revocation of Government's assumption of risk and (2) prime and subcontractor risk of loss relationships, by reformatting the section into two paragraphs, (b) and (c).

Revised 45.105 to change the heading to ''Contractor's property management system compliance.''

Deleted 45.105(b)(1) and renumbered remaining paragraphs in order to eliminate ''contract price adjustment'' as one of the examples of corrective action if a contractor does not correct property management system deficiencies.

Revised 45.105(b)(3) to renumber as 45.105(b)(2) in accordance with another recommendation. 45.105(b)(2) was revised to state ''other rights or remedies available to the contracting officer.''

Revised 45.105(d) to add language describing the conditions and circumstances under which the Property Administrator may grant relief of responsibility.

Revised 45.106 and 52.245–1(d)(1) to add language for the inapplicability of warranties of suitability of use and timely delivery of Government-furnished property, to property acquired or fabricated initially by the contractor, and subsequently transferred to another contract with this contractor.

Revised 45.107(a)(1)(iii) to add language regarding the use of the Government property clause 52.245–1 in FAR Part 12 solicitations and contracts.

Revised 45.107(b) to clarify that Government property clauses 52.245–1 and 52.245–2 may be used concurrently under a single contract.

Revised 45.107(c) to mandate the use of clause 52.245–9, Uses and Charges, for all solicitations and contracts that furnish or authorize the acquisition of Government property.

Revised 45.107(d) to clarify the use of Government property clauses in purchase orders for property repair.

Revised 45.201(a)(1) and 52.245–1(f)(1)(iii)(A)(1) to replace ''commercial part number'' with ''part number'' and remove ''bulk identifier'' as required elements of property records.

Revised 45.201(a) to add a requirement for the contracting officer to include a statement in all solicitations as to whether the Government property is to be furnished in an ''as-is'' condition and instructions for physical inspection.

Revised 45.201 to move paragraphs (d) and (e) into FAR 45.202, and eliminate the (d)(2) requirement to charge rent when adjusting the evaluation is not practical; add a new paragraph (d) to provide guidance for the use of property on more than one contract.

Deleted the requirement of 45.301(b)(1) to exclude Government-owned, contractor-operated plants operating on a cost-plus-fixed-fee basis from rental charges. As a result of the deletion, 45.301(b) is restructured.

Revised 45.303(b) for clarification and (c) to update the reference for computing rent.

Revised 45.401(b) and (c), moved them into 45.402, and revised clause 52.245–1(d) and (e) to retain title language in the current FAR at 52.245–2 and 52.245–5.

Revised 45.501 to provide for the property administrator assigned to the prime contract to request support

property administration from another contract administration office, for purposes of evaluating prime contractor management of property located at subcontractors and alternate locations.

Revised 45.501 and 45.502 to provide that for property located at a subcontractor, the prime contractor must agree to allow support property administration. Should the prime contractor not agree, the property administrator assigned to the prime contractor shall immediately refer the matter to the contracting officer.

Revised 52.244–2(b) to delete the reference to special test equipment and the clause at 52.245–18.

Revised the third sentence of 52.245–1(b)(1) to add ''procedures'' and add ''except where inconsistent with law or regulation'' after the words ''property management.''. Added a new fourth sentence: ''During the period of performance, the contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.''

Revised 52.245–1(b)(2) to add words ''or stolen.''

Revised clause 52.245–1(d)(3)(ii) (renumbered as (d)(2)(ii)) to allow the contractor the opportunity to inspect Government-furnished property, expected to be suitable for contract performance, after receipt and installation.

Revised clause 52.245–1(d)(3)(iii) (renumbered as (d)(2)(iii)) to ensure that the contractor is given the opportunity to inspect property furnished in an ''as-is'' condition prior to the property being provided on contract.

Revised 52.245–1(f)(1) to add the word ''procedures'' to the first sentence in (f)(1) after the word ''system.''

Revised 52.245–1(f)(1)(ii) to clarify the identification of Government property.

Revised 52.245–1(f)(1)(iii)(B) to add the heading ''Use of a Receipt and Issue System for Government Material'' and make editorial changes.

Revised 52.245–1(f)(1)(iv) to require disclosure of the results of the physical inventory.

Revised 52.245–1(f)(1)(v) to provide that the contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions, *e.g.*, extent of liability for loss, damage, destruction or theft of Government property, and deleted the requirement to flow down any cost savings achieved as a result of its prime contract relationship with the Government.

Revised 52.245–1(f)(1)(vi) to clarify the lead-in language for examples of reports to be provided by the contractor.

Revised 52.245–1(f)(1)(vi)(B), (C), and (D); and moved language to 52.245–1(h)(2), (3), (4), and (5) and renumbered.

Revised 52.245–1(f)(1)(vi) to add paragraphs (12) and (13) to add language for last known location and a statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

Revised 52.245–1(f)(1)(vii)(A) to state that a Property Administrator may grant relief for loss, damage, destruction or theft of Government property.

Revised 52.245–1(f)(1)(viii), adding the word ''move'', and revised FAR 52.245–1(f)(1)(viii) to add a new paragraph (B).

Revised 52.245–1(f)(1)(ix) to add the words ''and routine.''

Revised 52.245–1(f)(3) to include ''significant'' and ''pertaining to Government property'' which now provides access to significant findings and/or results of reviews and audits related directly to Government property.

Revised 52.245–1(g)(1) to add the words ''plan'' and ''that pertains to Government property'', and (g)(1) and (4) are revised to require access to all Government property as well as premises, and to premises of the subcontractor as well as the prime.

Revised the title to the clause 52.245–2 and the prescriptive language for the clause in FAR 45.107(b) for clarity.

Revised 52.245–2(c) to delete ''(*i.e.*)'' and add the word ''and.''

Revised 52.245–2 to add a paragraph (e) which requires the contracting officer to identify Government Property provided under the clause, and to revise paragraph (a) to add reference to (e).

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

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it is summarized as follows:

This final regulatory flexibility analysis has been prepared consistent with 5 U.S.C. 604.

1. Succinct statement of the need for, and the objectives of, the rule.

Title II of the Federal Property and Administrative Services Act of 1949, Public Law 81–152, as amended, requires, in part that executive agencies account for Government property, determine when such property is excess, and dispose of excess Government property promptly. The final rule amends the FAR to revise the policies for the management of Government owned property used and acquired by private industry in the performance of Government contracts.

2. Summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

No comments were received that specifically mentioned the Initial Regulatory Flexibility Analysis.

3. Description of and an estimate of the number of small entities to which the rule will apply.

It is estimated that approximately 5000 contractors have Federal property in their possession. Department of Defense (DoD) has 2,242 contractors. Approximately 62 percent of DoD's contractors are small businesses. Given that property in the possession of contractors is overwhelmingly DoD property, it is estimated the DoD ratio of small business to total businesses having such property is a reasonable approximation for all Government contractors. Therefore, it is estimated that approximately 3,100 small businesses have Government property in their possession.

4. Description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities, which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The rule does not impose any new reporting, recordkeeping, or compliance requirements. This final rule substantially decreases the impact of the current Federal Acquisition Regulation (FAR) provisions by simplifying procedures, reducing recordkeeping and eliminating requirements related to the management of Government property in the possession of contractors. The final rule continues the philosophy of ordinarily requiring contractors to furnish all property necessary to perform Government contracts, but also introduces more modern and innovative concepts.

The final rule is structured around a number of principles or objectives, which it is believed, will have an overall positive impact on contractors regardless of size. The rule balances regulation with principle-based standards that allow for minimal regulatory requirement and greater flexibility and efficiency to achieve best value for the Government. The rule introduces commercial standards and industry best practices into the property management process to the maximum extent possible. This facilitates moving from a prescribed regulatory process to a performance-based outcome environment. The use of voluntary consensus standards and leading industry practices should reduce both the Government's and the contractor's ongoing administrative costs of dealing with Government property. The contractors will initiate and maintain the processes, systems, records, and methodologies necessary for effective control of the Government's property.

While it may be that small businesses are more dependent on Government—furnished property than large businesses, the underlying philosophy has not changed (*i.e.*, contractors are ordinarily required to furnish all property necessary to perform the Government contracts).

5. 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, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The final rule changes the approach to managing Government property by accepting commercial practices and standards instead of prescriptive-type requirements, alleviating the need for a separate and costly Government-dictated property system. The final rule further alleviates the burden on small businesses by reducing their risk on ''as-is'' Government-furnished property by allowing contractors to inspect ''as-is'' property prior to acceptance. By moving to one clause at FAR 52.245–1, Government Property, the Government has streamlined numerous clauses into one ''overarching'' clause, simplifying the understanding of Government property to the contracting community. The rule will reduce burdens on the entire contracting community, large business as well as small.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

E. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the final rule contains information collection requirements. Accordingly, the FAR Secretariat will forward a request for approval of a new information collection requirement concerning 9000–0075 to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request will be invited through a subsequent **Federal Register** notice.

List of Subjects in 48 CFR Parts 1, 2, 4, 7, 14, 15, 16, 17, 18, 19, 22, 28, 31, 32, 35, 37, 41, 42, 43, 44, 45, 46, 49, 51, 52, and 53

Government procurement.

Dated: May 2, 2007.

Al Matera,

Acting Director,Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 4, 7, 14, 15, 16, 17, 18, 19, 22, 28, 31, 32, 35, 37, 41, 42, 43, 44, 45, 46, 49, 51, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 4, 7, 14, 15, 16, 17, 18, 19, 22, 28, 31, 32, 35, 37, 41, 42, 43, 44, 45, 46, 49, 51, 52, and 53 continues to read as follows:

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

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory paragraph, by—

■

■ a. Removing FAR segment ''52.216–13'', and its corresponding OMB Control Number ''9000–0069'';

■ b. Removing FAR segment ''52.232–21'', and its corresponding OMB Control Number ''9000–0074'';

■ c. Adding FAR segment ''52.245–1'', and its corresponding OMB Control Number ''9000–0075''; and

■ d. Removing FAR segments ''52.245–2'', ''52.245–3'', ''52.245–5'', ''52.245–7'', ''52.245–8'', ''52.245–10'', ''52.245–11'', ''52.245–16'', ''52.245–17'', and ''52.245–18'' and their corresponding OMB Control Number ''9000–0075''.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101 in paragraph (b) by—

■ a. Adding, in alphabetical order, the definition ''Common item'';

■ b. Revising the definition ''Plant clearance officer''; and

■ c. Adding, in alphabetical order, the definitions ''Special test equipment'', ''Special tooling'', and ''Voluntary consensus standards'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Common item means material that is common to the applicable Government contract and the contractor's other work.

* * * * *

Plant clearance officer means an authorized representative of the contracting officer, appointed in accordance with agency procedures, responsible for screening, redistributing, and disposing of contractor inventory from a contractor's plant or work site. The term ''Contractor's plant'' includes, but is not limited to, Government-owned contractor-operated plants and Federal installations as may be required under the scope of the contract.

* * * * *

Special test equipment means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of items or assemblies of equipment including foundations and similar improvements necessary for installing special test equipment, and standard or general purpose items or components that are interconnected and interdependent so as to become a new functional entity for special testing purposes. Special test equipment does not include material, special tooling, real property, and equipment items used for general testing purposes or property that with relatively minor expense can be made suitable for general purpose use.

Special tooling means jigs, dies, fixtures, molds, patterns, taps, gauges, and all components of these items including foundations and similar improvements necessary for installing special test equipment, and which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services. Special tooling does not include material, special test equipment, real property, equipment, machine tools, or similar capital items.

* * * * *

Voluntary consensus standards means common and repeated use of rules, conditions, guidelines or characteristics for products, or related processes and production methods and related management systems. Voluntary Consensus Standards are developed or adopted by domestic and international voluntary consensus standard making bodies (*e.g.*, International Organization for Standardization (ISO) and ASTM-International). See OMB Circular A–119.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.703 [Amended]

■ 4. Amend section 4.703 in paragraph (b)(3) by removing '', and subparagraph (c)(2) of the clause at 52.216–13, Allowable Cost and Payment—Facilities''.

4.804–4 [Amended]

■ 5. Amend section 4.804–4 by removing from paragraph (b) ''Facilities contracts and rental'' and adding ''Rental'' in its place.

PART 7—ACQUISITION PLANNING

■ 6. Amend section 7.105 by revising paragraph (b)(14) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(14) *Government-furnished property.* Indicate any Government property to be furnished to contractors, and discuss any associated considerations, such as its availability or the schedule for its acquisition (see 45.102).

* * * * *

PART 14—SEALED BIDDING

■ 7. Amend section 14.502 by revising paragraph (b)(2) to read as follows:

14.502 Conditions for use.

* * * * *

(b) * * *

(2) Government property to be made available to the successful bidder.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

15.209 [Amended]

8. Amend section 15.209 by removing and reserving paragraph (b)(2).

15.404–1 [Amended]

■ 9. Amend section 15.404–1 by removing from paragraph (e)(1) ''facilities'' and adding ''equipment, real property'' in its place.

15.407–2 [Amended]

10. Amend section 15.407–2 by removing from paragraph (e)(1) ''facilities'' and adding ''equipment or real property'' in its place.

15.407–4 [Amended]

■ 11. Amend section 15.407–4 by removing from paragraph (a)(1) ''facilities'' and adding ''equipment, real property'' in its place; and by removing from paragraph (c)(1) ''facilities'' and adding ''real property,'' in its place.

15.605 [Amended]

■ 12. Amend section 15.605 by removing from paragraph (b)(4) ''facilities, equipment, materials,'' and adding ''Government property'' in its place.

PART 16—TYPES OF CONTRACTS

16.302 [Amended]

■ 13. Amend section 16.302 by removing from paragraph (b) '', and for facilities contracts''.

16.307 [Amended]

■ 14. Amend section 16.307 by—

■ a. Removing from paragraph (a)(1) ''(other than a facilities contract)'';

■ b. Removing from paragraph (b) ''facilities contract or a'';

■ c. Removing from paragraph (d) ''(other than a facilities contract)'';

■ d. Removing from paragraph (e)(1) ''or a facilities contract'';

■ e. Removing from paragraph (f)(1) ''(other than a facilities contract)'';

■ f. Removing paragraphs (g) and (h); and redesignating paragraph (i) as paragraph (g); and

■ g. Removing the last sentence from the newly designated paragraph (g).

PART 17—SPECIAL CONTRACTING METHODS

■ 15. Amend section 17.603 by revising paragraph (a)(5) to read as follows:

17.603 Limitations.

(a) * * *

(5) Functions that can more properly be accomplished in accordance with Subpart 45.3, Authorizing the Use and Rental of Government Property.

* * * * *

PART 18—EMERGENCY ACQUISITIONS

18.123 [Amended]

■ 16. Amend section 18.123 by removing ''45.404(a)(3) and (4)'' and adding ''45.301'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.803 [Amended]

■ 17. Amend section 19.803 by removing from paragraph (b)(2) ''facilities'' and adding ''equipment and real property'' in its place.

19.1103 [Amended]

■ 18. Amend section 19.1103 by removing from paragraph (b) ''facilities'' and adding ''property'' in its place.

19.1307 [Amended]

■ 19. Amend section 19.1307 by removing from paragraph (c) ''facilities'' and adding ''property'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.405 [Removed and Reserved]

■ 20. Section 22.405 is removed and reserved.

22.407 [Amended]

■ 21. Amend section 22.407 by removing and reserving paragraph (d).

PART 28—BONDS AND INSURANCE

28.303 [Amended]

■ 22. Amend section 28.303 by removing ''45.103'' and adding ''45.104'' in its place.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.106 [Removed and Reserved]

■ 23. Remove and reserve section 31.106.

■ 23a. Remove sections 31.106–1 through 31.106–3.

■ 24. Amend section 31.205–19 by revising paragraph (e)(2)(iv) to read as follows:

31.205–19 Insurance and indemnification.

* * * * *

(e) * * *

(2) * * *

(iv) Costs of insurance for the risk of loss, damage, destruction, or theft of Government property are allowable to the extent that—

(A) The contractor is liable for such loss, damage, destruction, or theft;

(B) The contracting officer has not revoked the Government's assumption of risk (see 45.104(b)); and

(C) Such insurance does not cover loss, damage, destruction, or theft which results from willful misconduct or lack of good faith on the part of any of the contractor's managerial personnel (as described in FAR 52.245–1(h)(1)(ii)).

* * * * *

31.205–40 [Amended]

■ 25. Amend section 31.205–40 by removing from paragraph (a) ''45.101'' and adding ''2.101(b)'' in its place.

PART 32—CONTRACT FINANCING

■ 26. Amend section 32.403 by revising paragraph (c) to read as follows:

32.403 Applicability.

* * * * *

(c) Contracts for acquisition, at cost, of property for Government ownership.

* * * * *

32.407 [Amended]

■ 27. Amend section 32.407 by removing from paragraph (c) ''facilities'' and adding ''property'' in its place.

■ 28. Amend section 32.503–15 by removing from the introductory text of paragraph (b) ''other clauses, as follows:'' and adding an em-dash in its place; and by revising paragraph (b)(1) to read as follows:

32.503–15 Application of Government title terms.

* * * * *

(b) * * *

(1) The clause at 52.245–1, Government Property; and

* * * * *

32.704 [Amended]

■ 29. Amend section 32.704 by removing from paragraph (a)(1)

''52.232–21, Limitation of Cost (Facilities);''.

32.705–2 [Amended]

■ 30. Amend section 32.705–2 by removing from paragraph (a) '', except those for consolidated facilities, facilities acquisition, or facilities use''; removing paragraph (b); and redesignating paragraph (c) as paragraph (b).

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

■ 31. Amend section 35.014 by revising paragraph (e) to read as follows:

35.014 Government property and title.

* * * * *

(e) The policies in paragraphs (b)(1) through (b)(3) and paragraph (d) of this section are implemented in the Government Property clauses.

35.017 [Amended]

■ 32. Amend section 35.017 by removing from paragraph (a)(2) ''facilities'', each time it appears, and adding ''installations equipment and real property'' in its place (twice).

PART 37—SERVICE CONTRACTING

37.101 [Amended]

■ 33. Amend section 37.101, by removing from paragraph (5) of the definition ''Service Contract'' ''facilities'' and adding ''real property'' in its place.

PART 41—ACQUISITION OF UTILITY SERVICES

41.102 [Amended]

■ 34. Amend section 41.102 by removing from paragraph (b)(6) ''Government-owned facilities'' and adding ''Government-owned equipment and real property'' in its place.

41.701 [Amended]

■ 35. Amend section 41.701 by removing from paragraph (b) ''facilities'' and adding ''equipment and real property'' in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 36. Amend section 42.302 by removing and reserving paragraph (a)(27); and by revising the introductory text of paragraph (a)(30), and (a)(30)(i) through (a)(30)(iii) to read as follows:

42.302 Contract administration functions.

(a) * * *

(27) [Reserved]

* * * * *

(30) When contractors request Government property—

(i) Evaluate the contractor's requests for Government property and for changes to existing Government property and provide appropriate recommendations to the contracting officer;

(ii) Ensure required screening of Government property before acquisition by the contractor;

(iii) Approve use of Government property on a noninterference basis in accordance with the clause at 52.245–9, Use and Charges;

* * * * *

42.705–1 [Amended]

■ 37. Amend section 42.705–1 by removing from paragraph (b)(1) ''or 52.216–13''.

42.705–3 [Amended]

■ 38. Amend section 42.705–3 by removing from paragraph (b)(5)(ii) ''16.307(i)'' and adding ''16.307(g)'' in its place.

42.708 [Amended]

■ 39. Amend section 42.708 by removing from paragraph (b) ''or 52.216–13''.

42.709–6 [Amended]

■ 40. Amend section 42.709–6 by removing ''52.216–13,''.

42.1102 [Amended]

■ 41. Amend section 42.1102 by removing ''facilities,''.

42.1107 [Amended]

■ 42. Amend section 42.1107 by removing from paragraph (a) ''a facilities contract,''.

42.1305 [Amended]

■ 43. Amend section 42.1305 by removing paragraph (c), and redesignating paragraph (d) as paragraph (c).

PART 43—CONTRACT MODIFICATIONS

43.205 [Amended]

■ 44. Amend section 43.205 by removing and reserving paragraph (b)(5).

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.101 [Amended]

■ 45. Amend section 44.101 by removing the definition ''Facilities''.

44.202–1 [Amended]

■ 46. Amend section 44.202–1 by removing from paragraph (c) ''paragraph (k)'' and adding ''paragraph (j)'' in its place.

■

■ 47. Amend section 44.202–2 by revising paragraphs (a)(2) and (a)(10) to read as follows:

44.202–2 Considerations.

(a) * * *

(2) Is the subcontract for special test equipment, equipment or real property that are available from Government sources?

* * * * *

(10) Has adequate consideration been obtained for any proposed subcontract that will involve the use of Government-provided equipment and real property?

* * * * *

PART 45—GOVERNMENT PROPERTY

■ 48. Revise section 45.000 to read as follows:

45.000 Scope of part.

This part prescribes policies and procedures for providing Government property to contractors, contractors' management and use of Government property, and reporting, redistributing, and disposing of contractor inventory. It does not apply to property under any statutory leasing authority, (except as to non-Government use of property under 45.301(f)); to property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments; to disposal of real property; or to software and intellectual property.

■ 49. Revise Subparts 45.1 through 45.5 to read as follows:

Subpart 45.1—General

Sec.

45.101 Definitions.
45.102 Policy.
45.103 General.
45.104 Responsibility and liability for Government property.
45.105 Contractors' property management system compliance.
45.106 Transferring accountability.
45.107 Contract clauses.

Subpart 45.2—Solicitation and Evaluation Procedures

45.201 Solicitation.
45.202 Evaluation procedures.

Subpart 45.3—Authorizing the Use and Rental of Government Property

45.301 Use and rental.
45.302 Contracts with foreign governments or international organizations.
45.303 Use of Government property on independent research and development programs.

Subpart 45.4—Title to Government Property

45.401 Title to Government-furnished property.
45.402 Title to contractor-acquired property.

Subpart 45.5—Support Government Property Administration

45.501 Prime contractor alternate locations.
45.502 Subcontractor locations.
45.503 Support property administrator findings.

Subpart 45.1—General

45.101 Definitions.

As used in this part—

Acquisition cost means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

Cannibalize means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

Contractor-acquired property means property acquired, fabricated, or otherwise provided by the contractor for performing a contract and to which the Government has title.

Contractor inventory means—

(1) Any property acquired by and in the possession of a contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;

(2) Any property that the Government is obligated or has the option to take over under any type of contract, *e.g.*, as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and

(3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

Contractor's managerial personnel means the contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All or substantially all of the contractor's business;

(2) All or substantially all of the contractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Discrepancies incident to shipment means any differences (*e.g.*, count or condition) between the items documented to have been shipped and items actually received.

Equipment means a tangible asset that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

Government-furnished property means property in the possession of, or directly acquired by, the Government and subsequently furnished to the contractor for performance of a contract.

Government property means all property owned or leased by the Government. Government property includes both Government-furnished property and contractor-acquired property.

Material means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end-item. Material does not include equipment, special tooling, and special test equipment.

Nonseverable means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

Plant equipment means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

*Precious metal*s means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

Property means all tangible property, both real and personal.

Property Administrator means an authorized representative of the contracting officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a contractor.

Provide means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

Sensitive property means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

Surplus property means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

45.102 Policy.

(a) Contractors are ordinarily required to furnish all property necessary to perform Government contracts.

(b) Contracting officers shall provide property to contractors only when it is clearly demonstrated—

(1) To be in the Government's best interest;

(2) That the overall benefit to the acquisition significantly outweighs the increased cost of administration, including ultimate property disposal;

(3) That providing the property does not substantially increase the Government's assumption of risk; and

(4) That Government requirements cannot otherwise be met.

(c) The contractor's inability or unwillingness to supply its own resources is not sufficient reason for the furnishing or acquisition of property.

(d) *Exception.* Property provided to contractors for repair or overhaul is not subject to the requirements of paragraph (b) of this section.

45.103 General.

(a) Agencies shall—

(1) Allow and encourage contractors to use voluntary consensus standards (see FAR 11.101(c)) and industry-leading practices and standards to manage Government property in their possession;

(2) Eliminate to the maximum practical extent any competitive advantage a prospective contractor may have by using Government property;

(3) Ensure maximum practical reutilization of contractor inventory for government purposes;

(4) Require contractors to use Government property already in their possession to the maximum extent practical in performing Government contracts;

(5) Charge appropriate rentals when the property is authorized for use on other than a rent-free basis; and

(6) Require contractors to justify retaining Government property not needed for contract performance and to declare property as excess when no longer needed for contract performance.

(b) Agencies will not generally require contractors to establish property management systems that are separate from a contractor's established procedures, practices, and systems used to account for and manage contractor-owned property.

45.104 Responsibility and liability for Government property.

(a) Generally, contractors are not held liable for loss, damage, destruction, or theft of Government property under the following types of contracts:

(1) Cost-reimbursement contracts.

(2) Time-and-material contracts.

(3) Labor-hour contracts.

(4) Fixed-price contracts awarded on the basis of submission of cost or pricing data.

(b) The contracting officer may revoke the Government's assumption of risk when the property administrator determines that the contractor's property management practices are inadequate and/or present an undue risk to the Government.

(c) A prime contractor that provides Government property to a subcontractor shall not be relieved of any responsibility to the Government that the prime contractor may have under the terms of the prime contract.

45.105 Contractors' property management system compliance.

(a) The agency responsible for contract administration shall conduct an analysis of the contractor's property management policies, procedures, practices, and systems. This analysis shall be accomplished as frequently as conditions warrant, in accordance with agency procedures.

(b) The property administrator shall notify the contractor in writing when the contractor's property management system does not comply with contractual requirements, and shall request prompt correction of deficiencies and shall provide a schedule for their completion. If the contractor does not correct the deficiencies in accordance with the schedule, the contracting officer shall notify the contractor, in writing, that failure to take the required corrective action(s) may result in—

(1) Revocation of the Government's assumption of risk for loss, damage, destruction, or theft; and/or

(2) The exercise of other rights or remedies available to the contracting officer.

(c) If the contractor fails to take the required corrective action(s) in response to the notification provided by the contracting officer in accordance with paragraph (b) of this section, the contracting officer shall notify the contractor in writing of any Government decision to apply the remedies described in paragraphs (b)(1) and (b)(2) of this section.

(d) When the property administrator determines that a reported case of loss, damage, destruction or theft of Government property constitutes a risk assumed by the Government, the property administrator shall notify the contractor in writing that they are granted relief of responsibility in accordance with FAR clause 52.245–1(f)(1)(vii). Where the property administrator determines that the risk of loss is not assumed by the Government, the property administrator shall forward a recommendation requesting that the contracting officer hold the contractor liable.

45.106 Transferring accountability.

Government property shall be transferred from one contract to another only when firm requirements exist under the gaining contract (see 45.102). Such transfers shall be documented by modifications to both gaining and losing contracts. Once transferred, all property shall be considered Government-furnished property to the gaining contract. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the contractor as contractor-acquired property that is subsequently transferred to another contract with the same contractor.

45.107 Contract clauses.

(a)(1) Except as provided in paragraph (d) of this section, the contracting officer shall insert the clause at 52.245–1, Government Property, in—

(i) All cost reimbursement, time-and-material, and labor-hour type solicitations and contracts; and

(ii) Fixed-price solicitations and contracts when the Government will provide Government property.

(iii) Contracts or modifications awarded under FAR Part 12 procedures where Government property that exceeds the simplified acquisition threshold, as defined in FAR 2.101, is furnished or where the contractor is directed to acquire property for use under the contract that is titled in the Government.

(2) The contracting officer shall use the clause with its Alternate I in contracts other than those identified in FAR 45.104(a), Responsibility and Liability for Government Property.

(3) The contracting officer shall use the clause with its Alternate II when a contract for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research (see 35.014) is contemplated.

(b) The contracting officer shall also insert the clause at 52.245–2, Government Property (Installation Operation Services), in service contracts to be performed on a Government installation when Government-furnished property will be provided for initial provisioning only and the Government is not responsible for repair or replacement.

(c) The contracting officer shall insert the clause at 52.245–9, Use and Charges, in solicitations and contracts when the clause at 52.245–1 is included.

(d) Purchase orders for property repair need not include a Government property clause when the acquisition cost of Government property to be repaired does not exceed the simplified acquisition threshold, unless other Government property (not for repair) is provided.

Subpart 45.2—Solicitation and Evaluation Procedures

45.201 Solicitation.

(a) The contracting officer shall insert a listing of the Government property to be offered in all solicitations where Government-furnished property is anticipated (see 45.102). The listing shall include at a minimum—

(1) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and/or disposition);

(2) Quantity/unit of measure;

(3) Unit acquisition cost;

(4) Unique-item identifier or equivalent (if available and necessary for individual item tracking); and

(5) A statement as to whether the property is to be furnished in an ''as-is'' condition and instructions for physical inspection.

(b) When Government property is offered for use in a competitive acquisition, solicitations should specify that the contractor is responsible for all costs related to making the property available for use, such as payment of all transportation, installation or rehabilitation costs.

(c) The solicitation shall describe the evaluation procedures to be followed, including rental charges or equivalents

and other costs or savings to be evaluated, and shall require all offerors to submit the following information with their offers—

(1) A list or description of all Government property that the offeror or its subcontractors propose to use on a rent-free basis. The list shall identify the accountable contract under which the property is held and the authorization for its use (from the contracting officer having cognizance of the property);

(2) The dates during which the property will be available for use (including the first, last, and all intervening months) and, for any property that will be used concurrently in performing two or more contracts, the amounts of the respective uses in sufficient detail to support prorating the rent;

(3) The amount of rent that would otherwise be charged in accordance with FAR 52.245–9, Use and Charges; and

(4) The voluntary consensus standard or industry leading practices and standards to be used in the management of Government property, or existing property management plans, methods, practices, or procedures for accounting for property.

(d) When use of property on more than one contract is anticipated, any additional instructions to the contractor regarding property management, accountability, and use, not addressed in FAR clause 52.245–1, Government Property, should be specifically addressed in the statement of work on the contract providing property.

45.202 Evaluation procedures.

(a) The contracting officer shall consider any potentially unfair competitive advantage that may result from the contractor possessing Government property. This shall be done by adjusting the offers by applying, for evaluation purposes only, a rental equivalent evaluation factor.

(b) The contracting officer shall ensure the offeror's property management plans, methods, practices, or procedures for accounting for property are consistent with the requirements of the solicitation.

Subpart 45.3—Authorizing the Use and Rental of Government Property

45.301 Use and rental.

This subpart prescribes policies and procedures for contractor use and rental of Government property.

(a) Government property shall normally be provided on a rent-free basis in performance of the contract under which it is accountable or otherwise authorized.

(b) Rental charges, to the extent authorized do not apply to Government property that is left in place or installed on contractor-owned property for mobilization or future Government production purposes; however, rental charges shall apply to that portion of property or its capacity used for non-government commercial purposes or otherwise authorized for use.

(c) The contracting officer cognizant of the Government property may authorize the rent-free use of property in the possession of nonprofit organizations when used for research, development, or educational work and—

(1) The use of the property is in the national interest;

(2) The property will not be used for the direct benefit of a profit-making organization; and

(3) The Government receives some direct benefit, such as rights to use the results of the work without charge, from its use.

(d) In exchange for consideration as determined by the cognizant contracting officer(s), the contractor may use Government property under fixed-price contracts other than the contract to which it is accountable. When, after contract award, a contractor requests the use of Government property, the contracting officer shall obtain a fair rental or other adequate consideration if use is authorized.

(e) The cognizant contracting officer(s) may authorize the use of Government property on a rent-free basis on a cost type Government contract other than the contract to which it is accountable.

(f) In exchange for consideration as determined by the cognizant contracting officer, the contractor may use Government property for commercial use. Prior approval of the Head of the Contracting Activity is required where non-Government use is expected to exceed 25 percent of the total use of Government and commercial work performed.

45.302 Contracts with foreign governments or international organizations.

Requests by, or for the benefit of, foreign Governments or international organizations to use Government property shall be processed in accordance with agency procedures.

45.303 Use of Government property on independent research and development programs.

The contracting officer may authorize a contractor to use the property on an independent research and development (IR&D) program, if—

(a) Such use will not conflict with the primary use of the property or enable the contractor to retain property that could otherwise be released;

(b) The contractor agrees not to claim reimbursement against any Government contract for the rental value of the property; and

(c) A rental charge for the portion of the contractor's IR&D program cost allocated to commercial work is deducted from the claim for reimbursement of any agreed-upon Government share of the contractor's IR&D costs.

Subpart 45.4—Title to Government Property

45.401 Title to Government-furnished property.

The Government retains title to all Government-furnished property until properly disposed of, as authorized by law or regulation. Property that is leased by the Government and subsequently furnished to the contractor for use shall be considered Government-furnished property under the clause 52.245–1, Government Property.

45.402 Title to contractor-acquired property.

(a) Under fixed price type contracts, the contractor retains title to all property acquired by the contractor for use on the contract, except for property identified as a deliverable end item. The Government acquires title to property acquired or fabricated by the contractor in accordance with the financing provisions or other specific requirements for passage of title in the contract. If a deliverable item is to be retained by the contractor for use after inspection and acceptance by the Government, it shall be made accountable to the contract through a contract modification listing the item as Government-furnished property.

(b) Under cost type and time-and-material contracts, the Government acquires title to all property to which the contractor is entitled to reimbursement, in accordance with paragraph (e)(3) of clause 52.245–1.

Subpart 45.5—Support Government Property Administration

45.501 Prime contractor alternate locations.

The property administrator assigned to the prime contract may request support property administration from another contract administration office, for purposes of evaluating prime contractor management of property located at subcontractors and alternate locations.

45.502 Subcontractor locations.

(a) For property located at a subcontractor, FAR 52.245–1(g) requires that the prime contractor allow support property administration. Should the prime contractor fail to comply with FAR 52.245–1(g), the property administrator assigned to the prime contractor shall immediately refer the matter to the contracting officer.

(b) The prime property administrator shall accept the findings of the delegated support property administrator and advise the prime contractor of any deficiencies within the subcontractor's property management system.

45.503 Support property administrator findings.

In instances where the prime contractor does not concur with the findings of the support Property Administrator, the prime property administrator shall immediately refer the matter to the contracting officer.

■ 50. Revise section 45.600 to read as follows:

45.600 Scope of subpart.

This subpart establishes policies and procedures for the reporting, reutilization, and disposal of contractor inventory excess to contracts and of property that forms the basis of a claim against the Government (*e.g.*, termination inventory under fixed-price contracts). This subpart does not apply to the disposal of real property or to property for which the Government has a lien or title solely as a result of advance, progress, or performance-based payments that have been liquidated.

45.601 [Removed and Reserved]

■ 51. Remove and reserve section 45.601.

PART 46—QUALITY ASSURANCE

46.202–3 [Amended]

■ 52. Amend section 46.202–3 by removing from paragraph (a) ''and 46.310,''.

46.310 [Removed and Reserved]

■ 53. Remove and reserve section 46.310.

PART 49—TERMINATION OF CONTRACTS

■ 54. Amend section 49.108–3 by revising paragraph (b)(1) to read as follows:

49.108–3 Settlement procedure.

* * * * *

(b) * * *

(1) All subcontractor termination inventory be disposed of and accounted for in accordance with the procedures contained in paragraph (j) of the clause at 52.245–1, Government Property; and

* * * * *

49.502 [Amended]

■ 55. Amend section 49.502 by removing from paragraphs (a)(1)(iv) and (b)(1)(i)(C) ''49.505(a), (b), or (e)'' and adding ''49.505(a) or (c)'' in its place.

■ 56. Amend section 49.505 by removing paragraphs (a) and (c), and redesignating paragraph (b) as paragraph (a), paragraph (d) as paragraph (b), and paragraph (e) as paragraph (c); and revising the last sentence of the newly designated paragraph (b) to read as follows:

49.505 Other termination clauses.

* * * * *

(b) * * * The contracting officer shall also insert the clause in time-and-material contracts, and labor-hour contracts.

* * * * *

49.603 [Amended]

■ 57. Amend section 49.603 by removing ''49.505(e)'' and adding ''49.505(c)'' in its place.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

51.106 [Amended]

■ 58. Amend section 51.106 by removing from paragraph (b) ''52.245–2'' and adding ''52.245–1'' in its place; and by removing '', or 52.245–5, Alternate I''.

51.107 [Amended]

■ 59. Amend section 51.107 by removing ''may authorize'' and adding ''authorizes'' in its place, and by removing the last sentence.

51.200 [Amended]

■ 60. Amend section 51.200 by removing ''45.304'' and adding ''45.102'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215–2 [Amended]

■ 61. Amend section 52.215–2 by removing and reserving Alternate I.

52.216–11 [Amended]

■ 62. Amend section 52.216–11 by removing from the introductory text ''or a facilities contract''.

52.216–12 [Amended]

■ 63. Amend section 52.216–12 by removing from the introductory text ''(other than a facilities contract)''.

52.216–13 and 52.216–14 [Removed and Reserved]

■ 64. Remove and reserve sections 52.216–13 and 52.216–14.

52.216–15 [Amended]

■ 65. Amend the introductory text of section 52.216–15 by removing ''16.307(i)'' and adding ''16.307(g)'' in its place.

52.222–17 [Removed and Reserved]

■ 66. Remove and reserve section 52.222–17.

52.232–20 [Amended]

■ 67. Amend the introductory text of section 52.232–20 by removing ''except those for consolidated facilities, facilities acquisition, or facilities use,''.

52.232–21 [Removed and Reserved]

■ 68. Remove and reserve section 52.232–21.

52.232–22 [Amended]

■ 69. Amend the introductory text of section 52.232–22 by removing ''32.705–2(c)'' and adding ''32.705–2(b)'' in its place.

52.242–16 [Removed and Reserved]

■ 70. Remove and reserve section 52.242–16.

52.242–17 [Amended]

■ 71. Amend the introductory text of section 52.242–17 by removing ''42.1305(d)'' and adding ''42.1305(c)'' in its place.

52.243–2 [Amended]

■ 72. Amend section 52.243–2 by removing and reserving Alternate IV.

■ 73. Amend section 52.243–4 by revising the date of the clause and paragraph (a)(3) to read as follows:

52.243–4 Changes.

* * * * *

CHANGES (JUNE 2007)

(a) * * *

(3) In the Government-furnished property or services; or

* * * * *

52.244–2 [Amended]

■ 74. Amend section 52.244–2 by—

■ a. Revising the date of the clause to read ''(JUNE 2007)'';

■ b. Removing paragraph (b) and redesignating paragraphs (c) through (k) as (b) through (j), respectively;

■ c. Amending the newly designated paragraph (b) by removing ''paragraph (d) or (e)'' and adding ''paragraph (c) or (d)'' in its place;

■ d. Amending the newly designated paragraphs (e)(1) and (e)(2) by removing ''paragraph (c), (d), or (e)'' and adding ''paragraph (b), (c), or (d)'' in its place;

■ e. Amending the newly designated paragraph (j) by removing ''Paragraphs (d) and (f)'' and adding ''Paragraphs (c) and (e)'' in its place; and

■ f. Amending Alternate I as follows:

■ 1. Revising the date of Alternate I to read ''(JUNE 2007)'';

■ 2. Removing from the introductory text of Alternate I ''paragraph (f)(2)'', each time it appears, and adding ''paragraph (e)(2)'' in its place (twice);

■ 3. Redesignating paragraph (f)(2) as paragraph (e)(2), and removing ''paragraph (d), or (e)'' and adding ''paragraph (c), or (d)'' in its place; and

■ 4. Removing from the newly designated paragraph (e)(2)(ii) ''paragraphs (f)(1)(i) through (f)(1)(iv)'' and adding ''paragraphs (e)(1)(i) through (e)(1)(iv)'' in its place.

■ 75. Revise sections 52.245–1 and 52.245–2 to read as follows:

52.245–1 Government Property.

As prescribed in 45.107(a), insert the following clause:

GOVERNMENT PROPERTY (JUNE 2007)

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

Acquisition cost means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

Cannibalize means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

Contractor-acquired property means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.

Contractor inventory means—

(1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;

(2) Any property that the Government is obligated or has the option to take over under any type of contract, *e.g.*, as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and

(3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

Contractor's managerial personnel means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Discrepancies incident to shipment means any differences (*e.g.*, count or condition) between the items documented to have been shipped and items actually received.

Equipment means a tangible asset that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

Government-furnished property means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract.

Government property means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property.

Material means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end-item. Material does not include equipment, special tooling and special test equipment.

Nonseverable means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

Plant equipment as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

Precious metals means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

Property means all tangible property, both real and personal.

Property Administrator means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

Provide means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

Sensitive property means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

Surplus property means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(b) *Property management.* (1) The Contractor shall have a system to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.

(2) The Contractor's responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, disposition, or via a completed investigation, evaluation, and final determination for lost, damaged, destroyed, or stolen property. This requirement applies to all Government property under the Contractor's accountability, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(v) of this cluase).

(3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.

(c) *Use of Government property.* The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Contracting Officer. The Contractor shall not modify, cannibalize, or make alterations to Government property unless this contract specifically identifies the modifications, alterations or improvements as work to be performed.

(d) *Government-furnished property.* (1) The Government shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Contractor as contractor-acquired property and subsequently transferred to another contract with this Contractor.

(2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance and will be delivered to the Contractor by the dates stated in the contract.

(i) If the property is not delivered to the Contractor by the dates stated in the contract, the Contracting Officer shall, upon the Contractor's timely written request, consider an equitable adjustment to the contract.

(ii) In the event property is received by the Contractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, the Contracting Officer shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying, returning, or otherwise disposing of the property at the Government's expense. Upon completion of the required action(s), the Contracting Officer shall consider an equitable adjustment to the contract (see also paragraph (f)(1)(ii)(A) of this clause).

(iii) The Government may, at its option, furnish property in an ''as-is'' condition. The Contractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for contract performance. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.

(3)(i) The Contracting Officer may by written notice, at any time—

(A) Increase or decrease the amount of Government-furnished property under this contract;

(B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or

(C) Withdraw authority to use property.

(ii) Upon completion of any action(s) under aragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.

(e) *Title to Government property.* (1) The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) *Fixed-price contracts.* (i) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as ''Government property)'', are subject to the provisions of this clause.

(ii) Title to each item of equipment, special test equipment and special tooling acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(iii) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract—

(A) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(B) Title to all other material shall pass to and vest in the Government upon—

(*1*) Issuance of the material for use in contract performance;

(*2*) Commencement of processing of the material or its use in contract performance; or

(*3*) Reimbursement of the cost of the material by the Government, whichever occurs first.

(3) *Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts.* (i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon—

(A) Issuance of the property for use in contract performance;

(B) Commencement of processing of the property for use in contract performance; or

(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(iii) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (e)(3)(i) (collectively referred to as ''Government property)'', are subject to the provisions of this clause.

(f) *Contractor plans and systems.* (1) Contractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:

(i) *Acquisition of Property.* The Contractor shall document that all property was acquired consistent with its engineering, production planning, and material control operations.

(ii) *Receipt of Government Property.* The Contractor shall receive Government property (document the receipt), record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (*e.g.*, stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) *Government-furnished property.* The Contractor shall furnish a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(B) *Contractor-acquired property.* The Contractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Contractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) *Records of Government property.* The Contractor shall create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

(*1*) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and/or disposition).

(*2*) Quantity received (or fabricated), issued, and balance-on-hand.

(*3*) Unit acquisition cost.

(*4*) Unique-item identifier or equivalent (if available and necessary for individual item tracking).

(*5*) Unit of measure.

(*6*) Accountable contract number or equivalent code designation.

(*7*) Location.

(*8*) Disposition.

(*9*) Posting reference and date of transaction.

(*10*) Date placed in service.

(B) *Use of a Receipt and Issue System for Government Material.* When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) *Physical inventory.* The Contractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. The Property Administrator may waive this final inventory requirement, depending on the circumstances (*e.g.*, overall reliability of the Contractor's system or the property is to be transferred to a follow-on contract).

(v) *Subcontractor control.* (A) The Contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions (*e.g.*, extent of liability for loss, damage, destruction or theft of Government property).

(B) The Contractor shall assure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor's property management system.

(vi) *Reports.* The Contractor shall have a process to create and provide reports of discrepancies; loss, damage, destruction, or theft; physical inventory results; audits and self-assessments; corrective actions; and other property related reports as directed by the Contracting Officer.

(A) Loss, damage, destruction, or theft. Unless otherwise directed by the Property Administrator, the Contractor shall investigate and promptly furnish a written narrative of all incidents of loss, damage, destruction, or theft to the property administrator as soon as the facts become known or when requested by the Government.

(B) Such reports shall, at a minimum, contain the following information:

(*1*) Date of incident (if known).

(*2*) The name, commercial description, manufacturer, model number, and National Stock Number (if applicable).

(*3*) Quantity.

(*4*) Unique Item Identifier (if available).

(*5*) Accountable Contract number.

(*6*) A statement indicating current or future need.

(*7*) Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.

(*8*) All known interests in commingled property of which the Government property is a part.

(*9*) Cause and corrective action taken or to be taken to prevent recurrence.

(*10*) A statement that the Government will receive any reimbursement covering the loss, damage, destruction, or theft, in the event the Contractor was or will be reimbursed or compensated.

(*11*) Copies of all supporting documentation.

(*12*) Last known location.

(*13*) A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(vii) *Relief of stewardship responsibility.* Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility for Government property when such property is—

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator; or a Property Administrator granted relief of responsibility for loss, damage, destruction or theft of Government property;

(B) Delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) *Utilizing Government property.* (A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator the Contractor shall not commingle Government property with property not owned by the Government.

(ix) *Maintenance.* The Contractor shall properly maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(x) *Property closeout.* The Contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss, damage, destruction, or theft cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(2) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(3) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(g) *Systems analysis.* (1) The Government shall have access to the contractor's premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(2) Records of Government property shall be readily available to authorized Government personnel and shall be safeguarded from tampering or destruction.

(3) Should it be determined by the Government that the Contractor's property management practices are inadequate or not acceptable for the effective management and/or control of Government property under this contract, and/or present an undue risk to the Government, the Contractor shall immediately take all necessary corrective actions as directed by the Property Administrator.

(4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) *Contractor Liability for Government Property.* (1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies—

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with 31.205–19.

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel. Contractor's managerial personnel, in this clause, means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business; all or substantially all of the Contractor's operation at any one plant or separate location; or a separate and complete major industrial operation.

(iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss, damage, destruction, or theft, due to a determination under paragraph (g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss, damage, destruction, or theft of Government property occurred while the Contractor had adequate property management practices or the loss, damage, destruction, or theft of Government property did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable.

(2) The Contractor shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Contractor shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(i) *Equitable adjustment.* Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. The right to an equitable adjustment shall be the Contractor's exclusive remedy and the Government shall not be liable to suit for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

(3) An increase, decrease, or substitution of Government-furnished property.

(4) Failure to repair or replace Government property for which the Government is responsible.

(j) *Contractor inventory disposal.* Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.

(1) *Scrap to which the Government has obtained title under paragraph (e) of this clause.* (i) *Contractor with an approved scrap procedure.* (A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Contractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that

inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that—

(*1*) Requires demilitarization;

(*2*) Is a classified item;

(*3*) Is generated from classified items;

(*4*) Contains hazardous materials or hazardous wastes;

(*5*) Contains precious metals; or

(*6*) Is dangerous to the public health, safety, or welfare.

(ii) *Contractor without an approved scrap procedure.* The Contractor shall submit an inventory disposal schedule for all scrap. The Contractor may not dispose of scrap resulting from production or testing under this contract without Government approval.

(2) *Predisposal requirements.* (i) Once the Contractor determines that Contractor-acquired property is no longer needed for contract performance, the Contractor in the following order of priority—

(A) May contact the Contracting Officer if use of the property in the performance of other Government contracts is practical;

(B) May purchase the property at the acquisition cost; or

(C) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(ii) The Contractor shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not used in the performance of other Government contracts under paragraph (j)(2)(i)(A) of this clause, property that was not purchased under paragraph (j)(2)(i)(B) of this clause, and property that could not be returned to a supplier under paragraph (j)(2)(i)(C) of this clause.

(3) *Inventory disposal schedules.* (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify—

(A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of this contract;

(B) Contractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that contract; and

(C) Termination inventory.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for—

(A) Special test equipment with commercial components;

(B) Special test equipment without commercial components;

(C) Printing equipment;

(D) Information technology (*e.g.*, computers, computer components, peripheral equipment, and related equipment);

(E) Precious metals;

(F) Nonnuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes.

(iv) The Contractor shall describe the property in sufficient detail to permit an understanding of its intended use. Property with the same description, condition code, and reporting location may be grouped in a single line item.

(4) *Submission requirements.* The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than—

(i) 30-days following the Contractor's determination that a Government property item is no longer required for performance of this contract;

(ii) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) 120 days, or such longer period as may be approved by the Termination Contracting Officer following contract termination in whole or in part.

(5) *Corrections.* The Plant Clearance Officer may—

(i) Reject a schedule for cause (*e.g.*, contains errors, determined to be inaccurate); and

(ii) Require the Contractor to correct an inventory disposal schedule.

(6) *Postsubmission adjustments.* The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule.

(7) *Storage.* (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability for such property under this contract.

(8) *Disposition instructions.* (i) If the Government does not furnish disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures.

(ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Plant Clearance Officer. If not returned to the Government, the Contractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to its disposal.

(iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i) of this clause.

(9) *Disposal proceeds.* As directed by the Contracting Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract, or to the Treasury of the United States as miscellaneous receipts.

(10) *Subcontractor inventory disposal schedules.* The Contractor shall require its Subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (j)(4) of this clause.

(k) *Abandonment of Government property.* (1) The Government shall not abandon sensitive Government property or termination inventory without the Contractor's written consent.

(2) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease.

(3) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government—furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(l) *Communication.* All communications under this clause shall be in writing.

(m) *Contracts outside the United States.* If this contract is to be performed outside of the United States and its outlying areas, the words ''Government'' and ''Government-furnished'' (wherever they appear in this clause) shall be construed as ''United States Government'' and ''United States Government-furnished,'' respectively.

(End of Clause)

Alternate I ''(JUNE 2007)''. As prescribed in 45.107(a)(2), substitute the following for paragraph (h)(1) of the basic clause:

(h)(1) The Contractor assumes the risk of, and shall be responsible for, any loss, damage, destruction, or theft of Government property upon its delivery to the Contractor as Government-furnished property. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

Alternate II ''(JUNE 2007)''. As prescribed in 45.107(a)(3), substitute the following for paragraph (e)(3) of the basic clause:

(e)(3) Title to property (and other tangible personal property) purchased with funds available for research and having an acquisition cost of less than $5,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible; provided that the Contractor obtained the Contracting Officer's

approval before each acquisition. Title to property purchased with funds available for research and having an acquisition cost of $5,000 or more shall vest as set forth in this contract. If title to property vests in the Contractor under this paragraph, the Contractor agrees that no costs shall be allowed for any depreciation, amortization, or use under any existing or future Government contract or subcontract thereunder. The Contractor shall furnish the Contracting Officer a list of all property to which title is vested in the Contractor under this paragraph within 10 days following the end of the calendar quarter during which it was received. Vesting title under this paragraph is subject to civil rights legislation, 42 U.S.C. 2000d. Before title is vested and by signing this contract, the Contractor accepts and agrees that—

''No person in the United States or its outlying areas shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to property).''

52.245–2 Government Property Installation Operation Services.

As prescribed in 45.107(b), insert the following clause:

GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES (JUNE 2007)

(a) This Government Property listed in paragraph (e) of this clause is furnished to the Contractor in an ''as-is, where is'' condition. The Government makes no warranty regarding the suitability for use of the Government property specified in this contract. The Contractor shall be afforded the opportunity to inspect the Government property as specified in the solicitation.

(b) The Government bears no responsibility for repair or replacement of any lost, damaged or destroyed Government property. If any or all of the Government property is lost, damaged or destroyed or becomes no longer usable, the Contractor shall be responsible for replacement of the property at Contractor expense. The Contractor shall have title to all replacement property and shall continue to be responsible for contract performance.

(c) Unless the Contracting Officer determines otherwise, the Government abandons all rights and title to unserviceable and scrap property resulting from contract performance. Upon notification to the Contracting Officer, the Contractor shall remove such property from the Government premises and dispose of it at Contractor expense.

(d) Except as provided in this clause, Government property furnished under this contract shall be governed by the Government Property clause of this contract.

(e) Government property provided under this clause:

_____

_____

_____

(End of clause)

52.245–3 through 52.245–8 [Removed and Reserved]

■ 76. Remove and reserve sections 52.245–3 through 52.245–8.

■ 77. Amend section 52.245–9 by—

■ a. Removing from the introductory text ''45.106(h)'' and adding ''45.107(c)'' in its place;

■ b. Revising the date of clause;

■ c. Revising the definitions ''Acquisition cost'' and ''Government property'';

■

■ d. Adding the definition ''Plant equipment''; and

■ e. Amending the definition ''Real property'' by removing ''or equipment'' and adding ''or plant equipment'' in its place.

■ The revised and added text reads as follows:

52.245–9 Use and Charges.

* * * * *

USE AND CHARGES (JUNE 2007)

(a) * * *

Acquisition cost means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

Government property means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property.

Plant equipment, as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

* * * * *

52.245–10 through 52.245–19 [Removed]

■ 78. Remove sections 52.245–10 through 52.245–19.

52.246–10 [Removed and Reserved]

■ 79. Remove and reserve section 52.246–10.

52.249–11 [Removed and Reserved]

■ 80. Remove and reserve section 52.249–11.

52.249–12 [Amended]

■ 81. Amend section 52.249–12 by removing from the introductory text ''49.505(b)'' and adding ''49.505(a)'' in its place.

52.249–13 [Removed and Reserved]

■ 82. Remove and reserve section 52.249–13.

■ 83. Revise the introductory text of section 52.249–14 to read as follows:

52.249–14 Excusable Delays.

As prescribed in 49.505(b), insert the following clause in solicitations and contracts for supplies, services, construction, and research and development on a fee basis whenever a cost-reimbursement contract is contemplated. Also insert the clause in time-and-material contracts, and labor-hour contracts. When used in construction contracts, substitute the words ''completion time'' for ''delivery schedule'' in the last sentence of the clause.

* * * * *

52.251–1 [Amended]

■ 84. Amend section 52.251–1 by removing Alternate I.

PART 53—FORMS

53.245 [Amended]

■ 85. Amend section 53.245 by removing from paragraph (e) ''SF 1428 (Rev. 5/04)'' and adding ''SF 1428 (Rev. 6/2007)'' in its place and removing ''52.245-2(i), 52.245-5(i)'' and adding ''52.245-1,'' in its place.

53.249 [Amended]

■ 86. Amend section 53.249 by removing from paragraph (b) ''*SF 1428 (Rev. 5/04)*'' and adding ''*SF 1428 (Rev. 6/2007)*'' in its place.

■ 87. Amend section 53.301-1428 by revising the form to read as follows:

53.301-1428 Inventory Disposal Schedule.

INVENTORY DISPOSAL SCHEDULE (See Reverse for Instructions) (See FAR 52.245 - I (j))	1. TYPE *(Check block(s) where applicable)* ☐ TERMINATION INVENTORY ☐ FINAL SCHEDULE	2. SCHEDULE REFERENCE NUMBER	PAGE NO.	NO. OF PAGES	OMB No.: **9000-0075** Expires: 2/28/2010

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VIR), Regulatory and Federal Assistance Division, GSA, Washington, DC 20405.

3. PRIME CONTRACT NO.	4. SUBCONTRACTOR/P.O. NO.	5. CONTRACT TYPE	6. TERM DOCKET NUMBER	7. TOTAL LINE ITEMS	8. TOTAL ACQUISITION COST

9a. CAGE CODE	9b. PRIME CONTRACTOR *(Point of Contact)*	10a. CAGE CODE	10b. SUBCONTRACTOR *(Point of Contact)*
9c. STREET ADDRESS		10c. STREET ADDRESS	
9d. CITY, STATE, AND ZIP CODE		10d. CITY, STATE, AND ZIP CODE	

11a. LOCATION OF PROPERTY	11b. POINT OF CONTACT FOR PROPERTY	12. PRODUCT COVERED BY CONTRACT/ORDER

13. ITEM NO.	14. ITEM DESCRIPTION	15. GOVT FURNISHED/ CONTRACTOR ACQUIRED	16. DML CODE	17. PROPERTY CLASSIFI-CATION	18. GOVERNMENT PART OR DRAWING NUMBER AND REVISION NUMBER	19. CONDITION CODE	20. QUANTITY	21. UNIT OF MEASURE	22. COST UNIT (a)	22. COST TOTAL (b)	23. CONTRACTOR'S OFFER

24a. SIGNATURE OF CONTRACTOR SUBMITTING SCHEDULE	24b. NAME OF CONTRACTOR SUBMITTING SCHEDULE	24c. TITLE	24d. DATE

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 1428 (REV. 6/2007)
Prescribed by GSA-FAR (48 CFR) 53.245(e) and 53.249(b)

INSTRUCTIONS

The Contractor shall submit all schedules to the Plant Clearance Officer.

Manual submissions. Prepare a separate schedule for items in each property classification (block 17) and a separate schedule for scrap. Submit an original and 2 copies of each scrap schedule and continuation sheet (SF 1429). For other schedules, an original and 7 copies are required.

Electronic submissions. Group all items of the same property classification. Submit separate schedules for scrap.

General instructions.

BLOCKS 1, 2 & 4 - Self-explanatory.

BLOCK 3 - PRIME CONTRACT NO. ***(For contract modifications and BOAs).*** If the property applies solely to one contract modification indicate the modification number after the contract number. For task orders and orders under basic ordering agreements, enter the contract number or BOA number followed by the order number under which the property is accountable.

BLOCK 5 - CONTRACT TYPE. Use one of the following codes:

J - Fixed-Price
O - Other
S - Cost-Reimbursement
Y - Time-and-Material
Z - Labor-Hour
9 - Task Order Contracts and Orders under Basic Ordering Agreements (BOAs)

BLOCKS 6 - 8 - Self-explanatory.

BLOCKS 9a and 10a - CAGE CODE. Enter the Commercial and Government Entity code when applicable.

BLOCKS 9b-d, 10b-d, and 11a-13 - Self-explanatory.

BLOCK 14 - ITEM DESCRIPTION. Describe each item in sufficient detail to permit the Government to determine its appropriate disposition. Scrap may be described as a lot including metal content, estimated weight and estimated acquisition cost. For all other property, provide the information required by FAR 52.245 - 1 (f)(1)(iii). List the national stock number (NSN) first. For the following, also provide:

Special tooling and special test equipment. Identify each part number with which the item is used.
Computers, components thereof, peripheral and related equipment. The manufacturer's name, model and serial number, and date manufactured.
Work in process. The estimated percentage of completion.
Precious metals. The metal type and estimated weight.
Hazardous material or property contaminated with hazardous material. The type of hazardous material.
Metals in mill product form. The form, shape, treatments, hardness, temper, specification (commercial or Government), and dimensions (thickness, width, and length).

BLOCK 15 - GOVERNMENT FURNISHED/CONTRACTOR ACQUIRED. Per line item, enter one of the following:

GF - Government furnished
CA - Contractor acquired

BLOCK 16 - DML CODE. ***(Demilitarization code).*** If applicable, enter the code specified in DoD 4160.21-M-1.

BLOCK 17 - PROPERTY CLASSIFICATION. Use one of the following classifications for each line item:

EQ - Equipment
M - Material
STE - Special test equipment
ST - Special tooling

In addition, when applicable, list one of the following sub classifications for each line item below the property classification:

COM - Computers, peripherals, etc.
AAE - Arms, ammunition and explosives
PM - Precious metals
HAZ - Hazardous materials
ME - Metals in mill product form
WIP - Work in process
CL - Classified

BLOCK 18 - Self-Explanatory.

BLOCK 19 - CONDITION CODE. Assign one of the following codes to each item:

Code 1. Property which is in new condition or unused condition and can be used immediately without modifications or repairs.

Code 4. Property which shows some wear, but can be used without significant repair.

Code 7. Property which is unusable in its current condition but can be economically repaired.

Code X. Property which has value in excess of its basic material content, but repair or rehabilitation is impractical and/or uneconomical.

Code S. Property has no value except for its basic material content.

BLOCKS 20 - 22 - Self-explanatory.

BLOCK 23 - CONTRACTOR'S OFFER. The Contractor's offer to purchase the item if it survives screening.

[FR Doc. 07–2256 Filed 5–14–07; 8:45 am]
BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR–2007–0002, Sequence 2]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–17; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This Small Entity Compliance Guide has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–17, which amends the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005–17, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov/*.

FOR FURTHER INFORMATION CONTACT: Laurieann Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULE IN FAC 2005–17

Item	Subject	FAR case	Analyst
*I	Government Property	2004–025	Parnell.

Item I—Government Property (FAR Case 2004–025)

This final rule amends Federal Acquisition Regulation (FAR) Part 45, Government Property, and associated FAR language and clauses to implement a policy that fosters efficiency, flexibility, innovation and creativity while continuing to protect the Government's interest. This rule simplifies procedures, clarifies language, and eliminates obsolete requirements related to the management and disposition of Government property in the possession of contractors by moving, clarifying, and deleting definitions; establishing a life-cycle approach to property management; and, sanctioning the use of consensus standards and/or industry-leading standards and practices for property management. This rule deletes outdated clauses, combines selected FAR property clauses into a single clause, and implements a new clause designed for military base and installation-level contracts awarded under the OMB Circular A–76 process. FAR language and associated clauses for special tooling, special test equipment and facilities contracts is deleted. It is not the Government's intention to change the intent or meaning of the language pertaining to ''title to Government property.''

Dated: May 2, 2007.

Al Matera,

Acting Director, Contract Policy Division.

[FR Doc. 07–2255 Filed 5–14–07; 8:45 am]
BILLING CODE 6820–EP–S

Federal Register

Tuesday,
May 15, 2007

Part III

The President

Proclamation 8142—National Defense Transportation Day and National Transportation Week, 2007

Proclamation 8143—National Safe Boating Week, 2007

Proclamation 8144—Peace Officers Memorial Day and Police Week, 2007

Federal Register
Vol. 72, No. 93
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Presidential Documents

Title 3—

The President

Proclamation 8142 of May 10, 2007

National Defense Transportation Day and National Transportation Week, 2007

By the President of the United States of America

A Proclamation

Our Nation's transportation infrastructure is vital to our security, competitiveness, and prosperity and is critical to the everyday lives of our citizens. On National Defense Transportation Day and during National Transportation Week, we salute those in the transportation industry who work to help keep our Nation safe and moving.

America is strengthened by transportation that helps to safely and efficiently transport our troops, deliver supplies, and serve in emergency situations. My Administration is committed to maintaining and modernizing our vast transportation infrastructure to serve the country's needs now and in the future. We continue to improve the safety and security of our roads, bridges, seaports, mass transit systems, airports, airplanes, and pipelines. Protecting our transportation systems increases safety for all our citizens and helps sustain our economy.

In addition to keeping Americans safe, our transportation system is critical to our citizens' everyday lives. Americans depend on our safe, reliable, and efficient infrastructure to travel for work or pleasure. Through the Department of Transportation, we are working to reduce congestion and improve the performance of America's transportation system.

There are many transportation professionals and military service members across our Nation who work to help ensure that our transportation systems run smoothly and continue to protect our homeland. We are grateful for their dedication and service, and we recognize their important contributions to making America's transportation system the strongest and most reliable in the world.

To recognize the men and women who work in the transportation industry and who contribute to our Nation's well-being and defense, the Congress, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), has designated the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), declared that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Friday, May 18, 2007, as National Defense Transportation Day and May 13 through May 19, 2007, as National Transportation Week. I encourage all Americans to learn how our modern transportation system contributes to the security of our citizens and the prosperity of our country and to celebrate these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, 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. 07–2414
Filed 5–14–07; 9:08 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8143 of May 10, 2007

National Safe Boating Week, 2007

By the President of the United States of America

A Proclamation

Millions of Americans take advantage of and participate in the special beauty of our Nation's waterways. During National Safe Boating Week, we renew our commitment to raising awareness about the importance of making safe and sound boating decisions on the water.

America's rivers, lakes, and oceans are wonderful places for boaters to gather with friends and family while enjoying the outdoors. As they do so, it is important that individuals avoid risky behaviors that can lead to boating accidents. Factors such as careless and reckless operation, inattention, and excessive speed contribute to accidents. To help ensure that individuals stay safe on America's waterways, the United States Coast Guard urges citizens to take basic safety precautions such as wearing a life jacket, participating in a boat safety course, getting a free vessel check, and never boating under the influence of alcohol or drugs. By practicing responsible boating habits, citizens can help contribute to a safer, more enjoyable experience on the water.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period prior to Memorial Day weekend as ''National Safe Boating Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 19 through May 25, 2007, as National Safe Boating Week. I encourage the Governors of the 50 States and the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States, to join in observing this week. I also urge all Americans to learn more about safe boating practices and always engage in proper and responsible conduct while on the water.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, 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. 07–2415
Filed 5–14–07; 9:08 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8144 of May 11, 2007

Peace Officers Memorial Day and Police Week, 2007

By the President of the United States of America

A Proclamation

In every American community, committed law enforcement officers watch over our neighborhoods and work to make our Nation a safer, more peaceful place. As we observe Peace Officers Memorial Day and Police Week, we honor the men and women who serve the cause of justice, and we pay tribute to those who have lost their lives in the line of duty.

By taking an oath to serve and protect their fellow citizens, law enforcement officers answer a vital calling and accept a profound responsibility. These extraordinary Americans work to uphold our laws and serve on the front lines in the fight against crime and terrorism.

We owe a lasting debt to those who sacrificed their lives while serving and protecting our fellow citizens. These fallen officers live on in our national memory as Americans whose courage and commitment have shown the true meaning of heroism. We offer our respect and prayers to their loved ones.

On Peace Officers Memorial Day and during Police Week, we recognize and honor the service and sacrifice of the men and women whose devotion to duty brings honor to our system of justice and makes America a better place.

By a joint resolution approved October 1, 1962, as amended, (76 Stat. 676), the Congress has authorized and requested the President to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week,'' and by Public Law 103–322, as amended, (36 U.S.C. 136), has directed that the flag be flown at half staff on Peace Officers Memorial Day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 15, 2007, as Peace Officers Memorial Day and May 13 through May 19, 2007, as Police Week. I call on all Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, as well as appropriate officials of all units of government, to direct that the flag be flown at half staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, 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. 07–2416
Filed 5–14–07; 9:08 am]
Billing code 3195–01–P

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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.

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Hazardous waste program authorizations:

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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The American National Red Cross Governance Modernization Act of 2007 (May 11, 2007; 121 Stat. 103; 8 pages)

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