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WHEN: Tuesday, June 12, 2007
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Contents

Federal Register

Vol. 72, No. 104

Thursday, May 31, 2007

Agency for Healthcare Research and Quality
NOTICES
Meetings:
Health Care Policy and Research Special Emphasis Panel, 30383–30384
Technical Review Committee, 30384

Agency for International Development
NOTICES
Senior Executive Service Performance Review Board; membership, 30332

Agriculture Department
See Food Safety and Inspection Service
See Grain Inspection, Packers and Stockyards Administration
See Rural Housing Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30332–30333

Air Force Department
NOTICES
Meetings:
Air University Board of Visitors, 30357–30358
Science Advisory Board, 30358

Army Department
NOTICES
Meetings:
Western Hemisphere Institute for Security Cooperation Board of Visitors, 30358

Centers for Disease Control and Prevention
NOTICES
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panels, 30384–30385

Coast Guard
RULES
Drawbridge operations:
Illinois, 30263–30264
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Baileys Harbor, WI, 30264–30266
Kenosha Harbor, Kenosha, WI, 30266–30268
Patuxent River, Calvert County, MD, 30268–30270
San Francisco Bay and Delta Region, CA, 30270–30272
Regattas and marine parades:
2007 Sail Virginia, 30258–30261
Ocean City Maryland Offshore Challenge, 30261–30263

Commerce Department
See National Oceanic and Atmospheric Administration
RULES
Freedom of Information Act; implementation, 30258

Community Development Financial Institutions Fund
NOTICES
Meetings:
Community Development Advisory Board, 30433

Defense Acquisition Regulations System
RULES
Acquisition regulations:
Technical amendments, 30278

Defense Department
See Air Force Department
See Army Department
See Defense Acquisition Regulations System
See Navy Department

Election Assistance Commission
NOTICES
Meetings; Sunshine Act, 30358–30359

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30359–30360
Meetings:
Environmental Management Site-Specific Advisory Board—
Paducah Gaseous Diffusion Plant, KY, 30360–30361
International Energy Agency Industry Advisory Board, 30361

Energy Efficiency and Renewable Energy Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Building America Energy Efficient Housing Partnerships Program, 30361–30362

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Iowa, 30275–30278
Missouri, 30272–30275
PROPOSED RULES
Air programs:
Outer Continental Shelf regulations—
California; consistency update, 30320–30324
Air quality implementation plans; approval and promulgation; various States:
designation of areas:
Indiana, 30436–30456
Iowa, 30319–30320
Missouri, 30319
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30375–30377
Water pollution control:
National Pollutant Discharge Elimination System—
Cook Inlet, AK; oil and gas exploration development and production facilities in State and Federal waters; general permit, 30377–30378

Executive Office of the President
See National Drug Control Policy Office

Export-Import Bank
RULES
Grants and agreements:
Nonprocurement debarment and suspension; OMB guidance; implementation, 30243–30244

Federal Aviation Administration
RULES
Airworthiness directives:
General Electric Co., 30249–30251
MORAVAN a.s., 30251–30253
Sikorsky Aircraft Corp., 30247–30249
Class E airspace, 30253–30254
Standard instrument approach procedures, 30254–30258
PROPOSED RULES
Airworthiness directives:
General Electric Co., 30300–30302

Federal Energy Regulatory Commission
NOTICES
Complaints filed:
Strategic Transmission, LLC, 30366–30367
Environmental statements; availability, etc.:
Iroquois Gas Transmission System, L.P., 30367–30369
Hydroelectric applications, 30369–30370
Applications, hearings, determinations, etc.:
El Paso Natural Gas Co., 30362
Georgia-Pacific LLC, 30362
Gulfstream Natural Gas System, L.L.C., 30362–30363
MarkWest New Mexico L.P., 30363
Northern Natural Gas Co., 30363–30364
Questar Pipeline Co., 30364
Showalter, Charles William, 30364–30365
Southern California Edison Co., 30365
Texas Gas Transmission, LLC, 30365
Trailblazer Pipeline Co., 30365–30366
Tuscarora Gas Transmission Co., 30366

Federal Highway Administration
NOTICES
Federal agency actions on proposed highways; judicial review claims:
San Diego County, CA; Star Route 52 highway project, 30423–30424

Federal Maritime Commission
NOTICES
Agreements filed, etc., 30378–30379
Ocean transportation intermediary licenses:
Amad Forwarding et al., 30379
C&A Shipping, Inc., 30379
Henry's Ocean Freight et al., 30379–30380

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 30380
Meetings:
Home equity lending market, 30380–30383

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 30383

Fish and Wildlife Service
RULES
Endangered and threatened species:
Critical habitat designations—
California and Oregon; vernal pool crustaceans and plants, 30279–30297
PROPOSED RULES
Endangered and threatened species:
Critical habitat designations—
Piping plover; wintering population, 30326–30331

Food and Drug Administration
NOTICES
Reports and guidance documents; availability, etc.:
Approved new animal drug application or abbreviated new animal drug application; chemistry, manufacturing, and control changes, 30386
Bioequivalence recommendations; product-specific guidances, 30386–30388
Bioequivalence recommendations for specific products, 30388–30390

Food Safety and Inspection Service
NOTICES
Reports and guidance documents; availability, etc.:
Post-lethality exposed ready-to-eat products; electronic Web-based Form 10,240-1; production information, 30333–30335

Government Accountability Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Medicare Payment Advisory Commission, 30383

Grain Inspection, Packers and Stockyards Administration
NOTICES
Agency designation actions:
Various States, 30335–30337

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Chehalis Confederated Tribes et al., WA, 30392

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See National Park Service

International Trade Commission
NOTICES
Import investigations:
Low enriched uranium from—
France, 30393–30394
Polyester staple fiber from—
China, 30394–30395

Labor Department
See Mine Safety and Health Administration

NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30395

Mine Safety and Health Administration
NOTICES
Petitions for safety standards modification; application, processing, disposition, etc., 30395–30397

National Archives and Records Administration
NOTICES
Nixon Presidential historical materials; opening of materials, 30397

National Credit Union Administration
RULES
Credit unions:
Technical amendments, 30245–30247

National Drug Control Policy Office
NOTICES
Meetings:
Drug Free Communities Advisory Commission, 30397–30398

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Motorcycles; stroboscopic lighting system; petition denied, 30324–30326
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Autostadt West, 30424–30425
Milwaukee Motorcycle Imports, Inc., 30425–30426
SS II of America, Inc., 30426–30428
Wallace Environmental Testing Laboratories, Inc., 30428–30430

National Institutes of Health
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30390
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Invitrogven Corp., 30390–30391
Reports and guidance documents; availability, etc.:
National Institute of Environmental Health Sciences; global environmental health workshop report; comment request, 30391–30392

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic highly migratory species—
Atlantic bluefin tuna, 30297–30299
NOTICES
Coastal zone management programs and estuarine sanctuaries:
State programs—
Intent to evaluate performance, 30357

National Park Service
NOTICES
Environmental statements; availability, etc.:
Quarry Visitor Center, Dinosaur National Monument; CO and UT, 30392–30393
Environmental statements; notice of intent:
Delaware Coastal Area, DE; special resource study, 30393

Navy Department
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Sage International, Ltd., 30358

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Pacific Gas & Electric Co., 30398–30399
Reports and guidance documents; availability, etc.:
Preclosure safety analysis; dose performance objectives and radiation protection program, 30399–30402

Office of National Drug Control Policy
See National Drug Control Policy Office

Pension Benefit Guaranty Corporation
PROPOSED RULES
Multiemployer plans:
Premium payments; variable-rate premiums, 30308–30319

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30430–30431

Rural Housing Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Multi-family and single family housing programs, 30337–30357

Securities and Exchange Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30402–30403
Investment Company Act of 1940:
First Investors Equity Funds et al., 30403–30404
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 30404–30408
National Stock Exchange, Inc., 30408–30410
New York Stock Exchange LLC, 30410–30413
Philadelphia Stock Exchange, Inc., 30413–30415

Small Business Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30415
Disaster loan areas:
Kansas, 30416
Maine, 30416–30417
South Dakota, 30417
Texas, 30417
Meetings:
Regulatory Fairness Boards—
Region IX; hearing, 30417–30418
Applications, hearings, determinations, etc.:
Emergence Capital Partners SBIC, L.P., 30415–30416
Horizon Ventures Fund II, L.P., 30416

State Department
PROPOSED RULES
Exchange Visitor Program:
Sanctions and terminations, 30302–30308

NOTICES
Grants and cooperative agreements; availability, etc.:
United States; survey of international educational exchange activity, 30418–30423

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Dakota Short Line Corp., 30431
Railroad services abandonment:
BNSF Railway Co., 30431–30432
Norfolk Southern Railway Co., 30432–30433

Thrift Supervision Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 30433–30434

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See Community Development Financial Institutions Fund
See Thrift Supervision Office

Veterans Affairs Department
RULES
Grants and assistance:
Nonprocurement debarment and suspension; OMB guidance; implementation, 30239–30243

Western Area Power Administration
NOTICES
Power rates:
Loveland Area Projects, 30370–30372
Pick-Sloan Missouri Basin Program—Eastern Division, 30372–30375

Separate Parts In This Issue

Part II
Environmental Protection Agency, 30436–30456

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

2 CFR
801.....30239
3513.....30243

12 CFR
413.....30243
701.....30245
703.....30245
707.....30245
710.....30245
722.....30245
723.....30245
742.....30245

14 CFR
39 (3 documents) 30247, 30249, 30251
71.....30253
97 (2 documents) 30254, 30256

Proposed Rules:
39.....30300

15 CFR
4.....30258

22 CFR

Proposed Rules:
62.....30302

29 CFR

Proposed Rules:
4006.....30308
4007.....30308

33 CFR
100 (2 documents) 30258, 30261
117.....30263
165 (4 documents) 30264, 30266, 30268, 30270

38 CFR
36.....30239
39.....30239
44.....30239
48.....30239
49.....30239
51.....30239

40 CFR
52 (2 documents) 30272, 30275

Proposed Rules:
52 (3 documents) 30319, 30436
55.....30320
81.....30436

48 CFR
209.....30278
215.....30278
225.....30278
249.....30278
252.....30278

49 CFR

Proposed Rules:
571.....30324

50 CFR
17.....30279
635.....30297

Proposed Rules:
17.....30326

Rules and Regulations

Federal Register
Vol. 72, No. 104
Thursday, May 31, 2007

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

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

DEPARTMENT OF VETERANS AFFAIRS

2 CFR Part 801

38 CFR Parts 36, 39, 44, 48, 49, and 51

RIN 2900–AM44

Department of Veterans Affairs Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is moving its regulations on nonprocurement debarment and suspension from title 38, Code of Federal Regulations (CFR), to title 2 of the CFR, and is adopting the format established by the Office of Management and Budget (OMB) in its interim final guidance on nonprocurement debarment and suspension, and OMB's final guidance on those matters. Accordingly, in this final rule, VA adopts OMB's guidance and consolidates it with VA's supplemental nonprocurement debarment and suspension provisions, which are codified at 38 CFR part 44. This rule removes part 44 and makes conforming changes to other 38 CFR provisions. This regulatory action is a government-wide administrative initiative for purposes of simplification and clarity, and makes no substantive changes to VA's policy or procedures for nonprocurement debarment and suspension.

DATES: *Effective Date:* This final rule is effective May 31, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Faliski, Assistant Director for Loan Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7369, *katherine.faliski@vba.va.gov.*

SUPPLEMENTARY INFORMATION: On May 11, 2004, OMB established title 2 of the CFR with two subtitles (69 FR 26276). Subtitle A, ''Office of Management and Budget Guidance for Grants and Agreements,'' contains OMB policy guidance to Federal agencies on grants and agreements. Subtitle B, ''Federal Agency Regulations for Grants and Agreements,'' contains Federal agencies' regulations implementing the OMB guidance, as it applies to grants and other financial assistance agreements and nonprocurement transactions.

On August 31, 2005, OMB published interim final guidance for government-wide nonprocurement debarment and suspension in the **Federal Register** (70 FR 51863). The guidance is located in 2 CFR part 180. The interim final guidance updated previous OMB guidance that was issued pursuant to Executive Order 12549, ''Debarment and Suspension'' (February 18, 1986), which gave government-wide effect to each agency's nonprocurement debarment and suspension actions. Section 6 of the Executive Order authorized OMB to issue guidance to Executive agencies on nonprocurement debarment and suspension, including provisions prescribing government-wide criteria and minimum due process procedures. Section 3 directed Executive agencies to issue regulations implementing the Executive Order that are consistent with the OMB guidelines. The OMB guidance at 2 CFR part 180 conforms with the Federal agencies' November 26, 2003, update to the common rule on nonprocurement debarment and suspension (70 FR 51864).

Although substantively the same as the common rule, OMB's guidance was published in a form suitable for agency adoption, thus eliminating the need for each agency to repeat the full text of the OMB government-wide guidance in its implementing regulations. This new approach is intended to make it easier for recipients of covered transactions or respondents in suspension or debarment actions to discern agency-to-agency variations from the common rule language; reduce the volume of Federal regulations in the CFR; and streamline the process for updating the government-wide requirements on nonprocurement debarment and suspension. On November 15, 2006, OMB published a final rule adopting the interim final guidance with changes (71 FR 66431).

This final rule moves VA's nonprocurement debarment and suspension regulations to 2 CFR subtitle B for codification with other agencies' nonprocurement debarment and suspension rules. This action was required by the OMB interim final guidance (2 CFR 180.20, 180.25, 180.30, and 180.35). New 2 CFR part 801 adopts the OMB guidelines with the additions and clarifications VA made to the common rule on nonprocurement debarment and suspension in November 2003 (68 FR 66618), as supplemented May 10, 2006 (71 FR 27203).

VA is removing 38 CFR part 44, the former location of VA's nonprocurement debarment and suspension regulations, and making conforming changes to 38 CFR 36.4226, 36.4337, 36.4346, 36.4349, 39.6, 48.510 and 49.13 by referencing 2 CFR parts 180 and 801, and to 38 CFR 51.210 by referencing 38 CFR part 48.

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 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.

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses 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 regulatory action will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), this action is exempt from the initial and final regulatory flexibility analysis requirements of section 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies 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.

Paperwork Reduction Act

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

2 CFR Part 801

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

38 CFR Part 36

Condominiums, Flood insurance, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

38 CFR Part 39

Cemeteries, Grant programs-veterans, Veterans.

38 CFR Part 44

Administrative practice and procedures, Grant programs, Loan programs, Reporting and recordkeeping requirements.

38 CFR Parts 48 and 49

Administrative practice and procedure, Debarment and suspension, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

38 CFR Part 51

Administrative practice and procedure, Claims, Day care, Dental health, Government contracts, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Mental health programs, Nursing homes, Reporting and records keeping requirements Travel and Transportation expenses, Veterans.

Approved: May 21, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons stated above, under the authority of 38 U.S.C. 501, the Department of Veterans Affairs amends 2 CFR Subtitle B and 38 CFR Chapter I as follows:

Title 2—Grants and Agreements

■ 1. Add chapter VIII, consisting of part 801, to subtitle B to read as follows:

CHAPTER VIII—DEPARTMENT OF VETERANS AFFAIRS

PART 801—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

801.10 What does this part do?
801.20 Does this part apply to me?
801.30 What policies and procedures must I follow?

Subpart A—General

801.137 Who in the Department of Veterans Affairs may grant an exception to allow an excluded person to participate in a covered transaction?

Subpart B—Covered Transactions

801.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C–Responsibilities of Participants Regarding Transactions

801.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

801.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

Subparts E–H [Reserved]

Subpart I—Definitions

801.930 Debarring official (Department of Veterans Affairs supplement to government-wide definition at 2 CFR 180.930).
801.995 Principal (Department of Veterans Affairs supplement to government-wide definition at 2 CFR 180.995).
801.1010 Suspending official (Department of Veterans Affairs supplement to government-wide definition at 2 CFR 180.1010).

Subpart J—Limited Denial of Participation (Department of Veterans Affairs Optional Subpart for OMB Guidance at 2 CFR Part 180).

801.1100 General.
801.1105 Cause for a limited denial of participation.
801.1110 Scope and period of a limited denial of participation.
801.1111 Notice.
801.1112 Conference.
801.1113 Appeal.

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 38 U.S.C. 501(a) and 3703(c).

§ 801.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Veterans Affairs (VA) policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the Department of Veterans Affairs to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, ''Debarment and Suspension'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Debarment and Suspension'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 801.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a ''covered transaction'' (see Subpart B of 2 CFR part 180 and the definition of ''nonprocurement transaction'' at 2 CFR 180.970, as supplemented by Subpart B of this part);

(b) Respondent in a Department of Veterans Affairs debarment or suspension action;

(c) Department of Veterans Affairs debarment or suspension official; or

(d) Department of Veterans affairs grants officer, agreements officer, or

other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 801.30 What policies and procedures must I follow?

For any section of OMB guidance in Subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of Veterans Affairs policies and procedures are those in the OMB guidance. For any such section where there is a corresponding section in this part, the Department of Veterans Affairs policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, and as supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by § 180.220 of the OMB guidance (2 CFR 180.220) as supplemented by § 801.220 in this part (2 CFR 801.220).

Subpart A–General

§ 801.137 Who in the Department of Veterans Affairs may grant an exception to allow an excluded person to participate in a covered transaction?

Within the Department of Veterans Affairs, the Secretary of Veterans Affairs, the Under Secretary for Health, the Under Secretary for Benefits, and the Under Secretary for Memorial Affairs each has the authority to grant an exception to allow an excluded person to participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 801.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

VA does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction, although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in the Appendix to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 801.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with Subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 801.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180 (as supplemented by Subpart C of this part) and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–H [Reserved.]

Subpart I—Definitions

§ 801.930 Debarring official (Department of Veterans Affairs supplement to government-wide definition at 2 CFR 180.930).

In addition to the debarring official listed at 2 CFR 180.930, the debarring official for the Department of Veterans Affairs is:

(a) For the Veterans Health Administration, the Under Secretary for Health;

(b) For the Veterans Benefits Administration, the Under Secretary for Benefits; and

(c) For the National Cemetery Administration, the Under Secretary for Memorial Affairs.

§ 801.995 Principal (Department of Veterans Affairs supplement to government-wide definition at 2 CFR 180.995.)

In addition to the principals identified at 2 CFR 180.995, for the Department of Veterans Affairs loan guaranty program, principals include, but are not limited to the following:

(a) Loan officers.
(b) Loan solicitors.
(c) Loan processors.
(d) Loan servicers.
(e) Loan supervisors.
(f) Mortgage brokers.
(g) Office managers.
(h) Staff appraisers and inspectors.
(i) Fee Appraisers and inspectors.
(j) Underwriters.
(k) Bonding companies.
(l) Real estate agents and brokers.
(m) Management and marketing agents.
(n) Accountants, consultants, investment bankers, architects, engineers, attorneys, and others in a business relationship with participants in connection with a covered transaction under the Department of Veterans Affairs loan guaranty program.
(o) Contractors involved in the construction, improvement or repair of properties financed with Department of Veterans Affairs guaranteed loans.
(p) Closing agents.

§ 801.1010 Suspending official (Department of Veterans Affairs supplement to government-wide definition at 2 CFR 180.1010).

In addition to the suspending official listed at 2 CFR 180.1010, the suspending official for the Department of Veterans Affairs is:

(a) For the Veterans Health Administration, the Under Secretary for Health;

(b) For the Veterans Benefits Administration, the Under Secretary for Benefits; and

(c) For the National Cemetery Administration, the Under Secretary for Memorial Affairs.

Subpart J—Limited Denial of Participation (Department of Veterans Affairs Optional Subpart for OMB Guidance at 2 CFR Part 180).

§ 801.1100 General.

Field facility directors are authorized to order a limited denial of participation affecting any participant or contractor and its affiliates except lenders and manufactured home manufacturers. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to order a limited denial of participation shall be discretionary and in the best interests of the Government.

§ 801.1105 Cause for a limited denial of participation.

(a) *Causes.* A limited denial of participation shall be based upon adequate evidence of any of the following causes:

(1) Irregularities in a participant's or contractor's performance in the VA loan guaranty program;

(2) Denial of participation in programs administered by the Department of Housing and Urban Development or the Department of Agriculture, Rural Housing Service;

(3) Failure to satisfy contractual obligations or to proceed in accordance with contract specifications;

(4) Failure to proceed in accordance with VA requirements or to comply with VA regulations;

(5) Construction deficiencies deemed by VA to be the participant's responsibility;

(6) Falsely certifying in connection with any VA program, whether or not

the certification was made directly to VA;

(7) Commission of an offense or other cause listed in § 180.800;

(8) Violation of any law, regulation, or procedure relating to the application for guaranty, or to the performance of the obligations incurred pursuant to a commitment to guaranty;

(9) Making or procuring to be made any false statement for the purpose of influencing in any way an action of the Department.

(10) Imposition of a limited denial of participation by any other VA field facility.

(b) *Indictment.* A criminal indictment or information shall constitute adequate evidence for the purpose of limited denial of participation actions.

(c) *Limited denial of participation.* Imposition of a limited denial of participation by a VA field facility shall, at the discretion of any other VA field facility, constitute adequate evidence for a concurrent limited denial of participation. Where such a concurrent limited denial of participation is imposed, participation may be restricted on the same basis without the need for an additional conference or further hearing.

§ 801.1110 Scope and period of a limited denial of participation.

(a) *Scope and period.* The scope of a limited denial of participation shall be as follows:

(1) A limited denial of participation extends only to participation in the VA Loan Guaranty Program and shall be effective only within the geographic jurisdiction of the office or offices imposing it.

(2) The sanction may be imposed for a period not to exceed 12 months except for unresolved construction deficiencies. In cases involving construction deficiencies, the builder may be excluded for either a period not to exceed 12 months or for an indeterminate period which ends when the deficiency has been corrected or otherwise resolved in a manner acceptable to VA.

(b) *Effectiveness.* The sanction shall be effective immediately upon issuance and shall remain effective for the prescribed period. If the cause for the limited denial of participation is resolved before the expiration of the prescribed period, the official who imposed the sanction may terminate it. The imposition of a limited denial of participation shall not affect the right of the Department to suspend or debar any person under this part.

(c) *Affiliates.* An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation, and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is capable of meeting VA requirements and is currently a responsible entity and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

§ 801.1111 Notice.

(a) *Generally.* A limited denial of participation shall be initiated by advising a participant or contractor, and any specifically named affiliate, by certified mail, return receipt requested:

(1) That the sanction is effective as of the date of the notice;

(2) Of the reasons for the sanction in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 801.1105 for imposing the sanction;

(4) Of the right to request in writing, within 30 days of receipt of the notice, a conference on the sanction, and the right to have such conference held within 10 business days of receipt of the request;

(5) Of the potential effect of the sanction and the impact on the participant's or contractor's participation in Departmental programs, specifying the program(s) involved and the geographical area affected by the action.

(b) *Notification of action.* After 30 days, if no conference has been requested, the official imposing the limited denial of participation will notify VA Central Office of the action taken and of the fact that no conference has been requested. If a conference is requested within the 30-day period, VA Central Office need not be notified unless a decision to affirm all or a portion of the remaining period of exclusion is issued. VA Central Office will notify all VA field offices of sanctions imposed and still in effect under this subpart.

§ 801.1112 Conference.

Upon receipt of a request for a conference, the official imposing the sanction shall arrange such a conference with the participant or contractor and may designate another official to conduct the conference. The participant shall be given the opportunity to be heard within 10 business days of receipt of the request. This conference precedes, and is in addition to, the formal hearing provided if an appeal is taken under § 801.1113. Although formal rules of procedure do not apply to the conference, the participant or contractor may be represented by counsel and may present all relevant information and materials to the official or designee. After consideration of the information and materials presented, the official shall, in writing, advise the participant or contractor of the decision to withdraw, modify or affirm the limited denial of participation. If the decision is made to affirm all or a portion of the remaining period of exclusion, the participant shall be advised of the right to request a formal hearing in writing within 30 days of receipt of the notice of decision. This decision shall be issued promptly, but in no event later than 20 days after the conference and receipt of materials.

§ 801.1113 Appeal.

Where the decision is made to affirm all or a portion of the remaining period of exclusion, any participant desiring an appeal shall file a written request for a hearing with the Under Secretary for Benefits, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. This request shall be filed within 30 days of receipt of the decision to affirm. If a hearing is requested, it shall be held in accordance with the procedures in §§ 108.825 through 108.855. Where a limited denial of participation is followed by a suspension or debarment, the limited denial of participation shall be superseded and the appeal shall be heard solely as an appeal of the suspension or debarment.

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—DEPARTMENT OF VETERANS AFFAIRS

PART 36—LOAN GUARANTY

■ 2. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

■ 3. In § 36.4226, paragraph (a)(3), the reference to ''at § 44.305 of this title'' is revised to read ''in 2 CFR parts 180 and 801''.

■ 4. In § 36.4337, paragraph (n), the reference to ''part 44 of this title'' is revised to read ''2 CFR parts 180 and 801''.

■ 5. In § 36.4346, paragraph (g)(2), the reference to ''38 CFR 44.205 and

44.305'' is revised to read ''2 CFR parts 180 and 801''.

■ 6. In § 36.4349, paragraph (a)(3), the reference to ''at § 44.305 of this title'' is revised to read ''in 2 CFR parts 180 and 801''.

PART 39—AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS' CEMETERIES

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

Authority: 38 U.S.C. 101, 501, 2408.

■ 8. In § 39.6, paragraph (c)(7), the reference to ''38 CFR parts 43 and 44'' is revised to read ''2 CFR parts 180 and 801 and 38 CFR part 43''.

PART 44 [REMOVED]

■ 9. Remove part 44.

PART 48—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 10. The authority citation for part 48 continues to read as follows:

Authority: 41 U.S.C. 701, *et seq.*; 38 U.S.C. 501.

■ 11. In § 48.510, paragraph (c), the reference to ''38 CFR part 44'' is revised to read ''2 CFR parts 180 and 801''.

PART 49—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

■ 12. The authority citation for part 49 continues to read as follows:

Authority: 5 U.S.C. 301; 38 U.S.C. 501, OMB Circular A–110 (2 CFR part 215), and as noted in specific sections.

■ 13. In § 49.13, the reference to ''part 44 of this chapter'' is revised to read ''2 CFR parts 180 and 801''.

PART 51—PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

■ 14. The authority citation for part 51 continues to read as follows:

Authority: 38 U.S.C. 101, 501, 1710, 1741–1743.

■ 15. In § 51.210, paragraph (t), the reference to ''38 CFR part 44, section 44.100 through 44.420'' is revised to read ''38 CFR part 48''.

[FR Doc. E7–10418 Filed 5–30–07; 8:45 am]

BILLING CODE 8320–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

2 CFR Part 3513

12 CFR Part 413

RIN 3048–ZA03

Export-Import Bank of the United States Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

AGENCY: Export-Import Bank of the United States.

ACTION: Direct final rule.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank) is establishing a new Part 3513 in 2 CFR that adopts the Office of Management and Budget's (OMB's) guidance in 2 CFR part 180, as supplemented by this new part, as Ex-Im Bank policies and procedures for nonprocurement debarment and suspension. Ex-Im Bank is also removing 12 CFR part 413, the part containing Ex-Im Bank's implementation of the government-wide common rule on nonprocurement debarment and suspension. 2 CFR part 3513 would serve the same purpose as the common rule in a simpler way. These changes constitute an administrative simplification that would make no substantive change in Ex-Im Bank policy or procedures for nonprocurement debarment and suspension.

DATES: The effective date for this final rule is July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Brian J. Sonfield, Assistant General Council for Administration, 202–565–3439, *brian.sonfield@exim.gov.*

SUPPLEMENTARY INFORMATION:

Background

Ex-Im Bank's current regulation on nonprocurement suspension and debarment is found at 12 CFR part 413. The current regulation, issued November 26, 2003 (68 66568), is Ex-Im Bank's promulgation of the government-wide ''common rule'' on this subject.

The Office of Management and Budget (OMB) published interim final guidance on nonprocurement debarment and suspension in the **Federal Register** on August 31, 2005 (70 FR 51863). On November 15, 2006, OMB published a final rule adopting the interim final guidance with changes (71 FR 66431). This guidance, located in 2 CFR part 180, is substantively the same as the common rule, but is published in a form that each agency can adopt, thus eliminating the need for each agency to publish its separate version of the same rule. It also facilitates the ability to update government-wide requirements without each agency having to re-promulgate its own rules.

Ex-Im Bank is therefore establishing new 2 CFR Part 3513, which adopts as Ex-Import Bank's regulation the OMB guidance set forth at 2 CFR part 180, supplemented by a few necessary agency-specific provisions. Current 12 CFR Part 413 is being removed. No substantive change in Ex-Im Bank's nonprocurement suspension and debarment regulation is intended by these actions.

Ex-Im Bank is authorized and empowered to do a general banking business pursuant to its Charter, see 12 U.S.C. 635(a)(1), and its decisions whether or not to extend credit in particular cases are ''committed to agency discretion by law,'' 5 U.S.C. 701(a)(2). Nothing contained in these regulations is intended to limit Ex-Im Bank's discretion to exercise any rights, privileges or recourse that Ex-Im Bank deems necessary to protect the interests and mission of Ex-Im Bank and the interests of the United States Government.

Executive Order 12866

OMB has determined this rule to be non-significant.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Federalism (Executive Order 13132)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects

2 CFR Part 3513

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

12 CFR Part 413

Administrative practice and procedure, Debarment and suspension, Government contracts, Loan programs, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons stated in the preamble, and under the authority of 12 U..C. 635; Ex-Im Bank amends the Code of Federal Regulations, Title 2, Subtitle B, and Title 12, Chapter IV, as follows:

Title 2—Grants and Agreements

■ 1. Add Chapter 35, consisting of part 3513, to Subtitle B to read as follows:

CHAPTER 35—EXPORT-IMPORT BANK OF THE UNITED STATES

PART 3513—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

3513.10 What does this part do?
3513.20 Does this part apply to me?
3513.30 What policies and procedures must I follow?

Subpart A—General

3513.137 Who at Ex-Im Bank may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

3513.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

3513.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

3513.437 What method do I use to communicate to a participate the requirements described in the OMB guidance at 2 CFR 180.435?

Subparts E–J—Reserved

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

§ 3513.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the Export Import Bank of the United States (Ex-Im Bank) policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for Ex-Im Bank to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, ''Debarment and Suspension'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Debarment and Suspension'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3513.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a ''covered transaction'' (see Subpart B of 2 CFR part 180 and the definition of ''nonprocurement transaction'' at 2 CFR 180.970, as supplemented by Subpart B of this part).

(b) Respondent in an Ex-Im Bank suspension or debarment action.

(c) Ex-Im Bank debarment or suspension official;

(d) Ex-Im Bank grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction;

§ 3513.30 What policies and procedures must I follow?

Ex-Im Bank policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (i.e., 2 CFR 180.220) as supplemented by section 220 in this pat (i.e., § 3513.220). For any section of OMB guidance in Subparts A through I of 2 CFR 180 that has no corresponding section in this part, Ex-Im Bank policies and procedures are those in the OMB guidance.

Subpart A—General

§ 3513.137 Who in Ex-Im Bank may grant an exception to let an excluded person participate in a covered transaction?

(a) The Ex-Im Bank agency head or designee may grant an exception permitting an excluded person to participate in a particular covered transacting. If the Ex-Im Bank agency head or designee grants an exception, the exception must be in writing and state the reason(s) for deviating from the government wide policy in Executive Order 12549.

(b) An exception granted by one agency for an excluded person does not extend to the covered transactions of another agency.

Subpart B—Covered Transactions

§ 3513.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in the Appendix to 2 CFR part 180), Ex-Im Bank does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 3513.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

To communicate the requirements, you must include a term or condition in the transaction requiring the participants' compliance with subpart C of this part and requiring them to include a similar term or condition in lower-tiered covered transactions.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 3513.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by Subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–J—[Reserved]

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

PART 413—[Removed]

■ 2. Remove Part 413.

Dated: May 22, 2007.

Howard A. Schweitzer,

General Counsel.

[FR Doc. 07–2659 Filed 5–30–07; 8:45 am]

BILLING CODE 6690–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 703, 707, 710, 722, 723, and 742

RIN #3133–AD36

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending a number of its regulations by making minor technical corrections, clarifications and grammatical changes. Among those amendments is the addition of a cross-reference between two regulations addressing credit union borrowing authority; addition of a statement in the provision on insurance coverage for volunteer officials to note, when a federal credit union (FCU) cancels coverage, it must comply with any other applicable laws allowing an official to continue coverage at his or her own expense; and clarification that indemnification for dual employees is limited to activities on behalf of the FCU. NCUA is also removing certain regulatory references to NCUA's FCU Bylaws that are no longer accurate due to revisions to the Bylaws. The amendments generally are improvements alerting users to other relevant provisions, responsibilities, or limitations.

DATES: This rule is effective May 31, 2007.

FOR FURTHER INFORMATION CONTACT: Annette Tapia or Frank Kressman, Staff Attorneys, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

NCUA continually reviews its regulations to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'' NCUA Interpretive Rulings and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations. Under IRPS 87–2, NCUA conducts a rolling review of one-third of its regulations every year, involving both internal review and public comment. NCUA's 2006 review revealed that minor revisions to certain regulations would be helpful.

B. Regulatory Changes

Section 701.33

NCUA's regulations implement the statutory provisions permitting FCUs to provide certain insurance for volunteer directors and committee members. 12 U.S.C 1761a; 12 CFR 701.33(b)(2)(ii). With respect to insurance coverage, the regulation provides that coverage must cease immediately when an official is no longer serving in that capacity. The amendment to § 701.33(b)(2)(ii) serves as a reminder that, when an FCU cancels insurance coverage for an official, other federal or state laws may provide departing officials the right to maintain health insurance coverage at their own expense.

The regulation also permits an FCU to indemnify its officials and employees under certain conditions. 12 CFR 701.33(c). The amendment adds a new subparagraph to § 701.33(c) clarifying that an FCU may not indemnify an FCU employee acting in a ''dual employee'' role for those duties performed for an entity other than the credit union. For example, an FCU employee who also performs duties for a credit union service organization (CUSO) is a dual employee and the FCU may only indemnify the employee for the functions performed for the FCU, not the CUSO.

Section 701.38

NCUA's regulations permit an FCU to borrow funds from natural persons, provided it uses a certificate of indebtedness, which sets forth the terms and conditions of the repayment of the borrowing. 12 CFR 701.38. This borrowing authority is subject to a statutory limitation implemented in NCUA's regulations limiting an FCU's maximum borrowing authority from any source to 50% of its paid-in and unimpaired capital and surplus. 12 U.S.C. 1757(9); 12 CFR 741.2(a). NCUA is inserting a cross-reference in § 701.38 to the borrowing limitations in § 741.2 to alert users to the regulatory provision on maximum borrowing authority.

FCU Bylaws

NCUA revised the FCU Bylaws in 1999 and 2006. The revised Bylaws provide greater clarity and flexibility. Several Bylaw provisions include fill-in-the-blank choices that enable an FCU's board of directors to select from a range of options best suited to their credit union's needs. As a result of those revisions, certain regulatory provisions referencing the Bylaws are outdated. The technical amendments remove those inaccurate references.

C. Regulatory Procedures

Final Rule Under the Administrative Procedure Act

Generally, the Administrative Procedure Act (APA) requires a federal agency to provide the public with notice and the opportunity to comment on agency rulemakings. The amendments in this rule are not substantive but technical in that they make minor corrections, merely provide clarification or alert users of the regulations to other legal requirements or limitations. The APA permits an agency to forego the notice and comment period under certain circumstances, such as when a rulemaking is technical and not substantive. NCUA finds good cause that notice and public comment are unnecessary under Section 553(b)(3)(B) of the APA. 5 U.S.C. 553(b)(3)(B). NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under Section 553(d)(3) of the APA. 5 U.S.C. 553(d)(3). The rule will, therefore, be effective immediately upon publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (those credit unions under ten million dollars in assets). This rule provides minor, technical changes and clarifications to certain sections of NCUA's regulations. This rule will not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that this rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has

determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

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

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

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of SBREFA. As required by SBREFA, NCUA will file the appropriate reports with Congress and the General Accounting Office so this rule may be reviewed.

List of Subjects

12 CFR Part 701

Credit unions, indemnity payments, insurance.

12 CFR Part 703

Credit unions, investments.

12 CFR Part 707

Advertising, consumer protection, credit unions, reporting and recordkeeping requirements, truth in savings.

12 CFR Part 710

Credit unions, liquidations.

12 CFR Part 722

Appraisals, credit unions, reporting and recordkeeping requirements.

12 CFR Part 723

Credit, credit unions, reporting and recordkeeping requirements.

12 CFR Part 742

Credit unions, reporting and recordkeeping requirements.

By the National Credit Union Administration Board on May 24, 2007.

Mary Rupp,

Secretary of the Board.

■ For the reasons discussed above, NCUA is amending 12 CFR parts 701, 703, 707, 710, 722, 723, and 742 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

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

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Section 701.21 is amended as follows:

■ a. In paragraph (a), by replacing the last word, ''part'' with the word ''chapter''; and

■ b. in paragraph (i)(1),introductory text, by removing the word ''this.''

■ 3. Section 701.33(b)(2)(ii) is amended by adding the phrase ''except that a credit union must comply with federal and state laws providing departing officials the right to maintain health insurance coverage at their own expense'' after ''if any;'' and before ''and'' at the end.

■ 4. Section 701.33 is amended by adding a new paragraph (c)(4) to read as follows:

§ 701.33 Reimbursement, insurance, and indemnification of officials and employees.

* * * * *

(4) Notwithstanding paragraphs (c)(1) through (3) of this section, a federal credit union may not indemnify a dual employee for duties performed for any employer other than the federal credit union. For purposes of this subsection, a dual employee is a federal credit union employee who also performs work functions for another entity as part of a sharing arrangement between the federal credit union and the other entity.

■ 5. Section 701.38 is amended by adding new paragraph (b) to read as follows:

§ 701.38 Borrowed funds from natural persons.

* * * * *

(b) Federal credit unions must comply with the maximum borrowing authority of § 741.2 of this chapter.

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

■ 6. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

■ 7. Section 703.4 is amended by replacing references to ''§ 701.12'' wherever they appear with references to ''§ 715.4.''

PART 707—TRUTH IN SAVINGS

■ 8. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

■ 9. Appendix B to Part 707 is amended as follows:

■ a. Section B–3 is amended by replacing the ''d'' with ''c'' in the topic heading.

■ b. Section B–6 is amended by removing the phrase '', but must be at least 6 months''.

■ c. Section B–6, paragraph 12, in the ''Note:'' portion is amended by removing the sentence, ''If this were a passbook account, then the requirements of Art. IV, Receipting for Money—Passbooks, in the NCUA Standard FCU Bylaws would also be included in item no. 9.''

■ d. Section B–6, paragraph 12, in the ''Note:'' portion is amended by removing the phrase '', and Art. XIV, § 3 of the NCUA Standard FCU Bylaws''.

■ e. Section B–7, paragraph 9 is amended by removing the phrase '', but must be at least 6 months''.

■ f. Section B–11 in the ''Note:'' portion is amended by removing the phrase '', except for the overdraft transfer fee of $1.00 per overdraft and the excessive share transfer fee of $1.00 per item, which are set in the NCUA Standard FCU Bylaws, Art. III, § 4 and § 5(f), respectively''.

■ 10. Appendix C to Part 707 is amended as follows:

■ a. Section 707.4(b)(2)(ii)(1) is amended by removing the parenthetical ''(members have at least six months to replenish membership share before membership terminates and account is deemed closed)''.

■ b. Section 707.7(b)(3) is amended by removing the parenthetical ''(members have at least 6 months to replenish membership share before membership can terminate and the account is deemed closed)''.

■ c. Section 707.11(b)(5) is amended by removing the open quotation marks between the words ''overdrafts'' and ''created.''

PART 710—VOLUNTARY LIQUIDATION

■ 11. The authority citation for part 710 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1786, and 1787.

■ 12. Section 710.3(a) introductory text is amended by removing the phrase '',

in accordance with the provisions of Article V of the Federal Credit Union Bylaws''.

PART 722—APPRAISALS

■ 13. The authority citation for part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, and 3339.

■ 14. Section 722.3(d) is amended by adding ''and (a)(5)'' after the words ''paragraphs (a)(1).''

PART 723—MEMBER BUSINESS LOANS

■ 15. The authority citation for part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

■ 16. Section 723.7(a) introductory text is amended by changing the reference to ''§ 723.4'' to read ''§ 723.3''.

PART 742—REGULATORY FLEXIBILITY PROGRAM

■ 17. The authority citation for part 742 continues to read as follows:

Authority: 12 U.S.C. 1756 and 1766.

■ 18. Section 742.4(a)(3) is amended by removing ''(b) and (c)'' after ''701.36(a)''.

[FR Doc. E7–10392 Filed 5–30–07; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28241; Directorate Identifier 2007–SW–07–AD; Amendment 39–15062; AD 2007–11–05]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, B, and C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, B, and C helicopters. This action requires a one-time ultrasonic inspection of the main rotor shaft assembly (M/R shaft) for cracking. This amendment is prompted by the discovery of cracking that occurred during the manufacturing of certain M/R shafts. The actions specified in this AD are intended to detect cracking in the M/R shaft, which could result in separation of the main rotor and subsequent loss of control of the helicopter.

DATES: Effective June 15, 2007.

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

Comments for inclusion in the Rules Docket must be received on or before July 30, 2007.

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

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

You may get the service information identified in this AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, Connecticut, phone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com.*

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

FOR FURTHER INFORMATION CONTACT: Kirk Gustafson, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7190, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: This amendment adopts an AD for Sikorsky Model S–76A, B, and C helicopters. This action requires, within 75 hours time-in-service (TIS), a one-time ultrasonic inspection of the M/R shaft for cracking. This amendment is prompted by the manufacturer's discovery of cracking that occurred during the manufacturing of certain M/R shafts. During a heat-treatment process of these M/R shafts, inadequate time was allowed for the M/R shafts to cool to a proper temperature between the heat-treatment cycles, which reduced the M/R shaft's ductility (capability of the M/R shaft being fashioned into a new form), and increased the potential for cracking to occur during subsequent cold-work forming of the M/R shaft. The actions specified in this AD are intended to detect cracking in the M/R shaft, which could result in separation of the main rotor and subsequent loss of control of the helicopter.

We have reviewed the following alert service bulletins:

- Sikorsky Alert Service Bulletin (ASB) No. 76–66–45A, Revision A, which is applicable to all S–76 model helicopters, with a M/R shaft, P/N 76351–09630–041, with certain serial numbers, installed; and
- Sikorsky ASB No. 76–66–46, which is applicable to all Model S–76A helicopters, with a M/R shaft, P/N 76351–09030-all dash numbers, with certain serial numbers, installed. Both ASBs are dated February 7, 2007, and both describe a one-time ultrasonic inspection of the M/R shaft for cracking, for main gear box (MGB) assemblies installed on helicopters, for MGB assemblies not installed on a helicopter, and for M/R shafts not installed on MGBs.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to detect cracking in the M/R shaft, which could result in separation of the main rotor and subsequent loss of control of the helicopter. This AD requires a one-time ultrasonic inspection of the M/R shaft for cracking, instructions for reassembly of the lower bearing housing assembly installation of the MGB and performance of a ground run leak test. Accomplish the inspection by following specified portions of the ASBs described previously. The ultrasonic inspection of the M/R shaft must be performed by a Level II or Level III inspector, qualified under the guidelines established by MIL–STD–410E, ATA Specification 105, AIA–NAS–410, or an FAA-accepted equivalent for qualification standards of Nondestructive Testing inspection/evaluation personnel. Recurrent training

and examinations are part of the qualification requirements.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability or structural integrity of the helicopter. The Model S–76 helicopter fleet is comprised of a large number of aircraft operating in an off-shore logistics support role for the petroleum industry. As such, many aircraft operate at high utilization rates approaching 200 hours TIS per month and this rate could translate to a higher potential for cracks that may have formed during manufacturing to propagate, leading to failure of the M/R shaft. Therefore, performing a one-time ultrasonic inspection of the M/R shaft for cracking within 75 hours TIS, which may equate to less than 2 weeks time-in-service, along with replacing any cracked M/R shaft with an airworthy M/R shaft before further flight, justify issuance of this AD immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

We estimate that this AD will affect 41 M/R shafts—20 M/R shafts to be removed from helicopters, 16 M/R shafts to be inspected before they are assembled into the MGB for installation on a helicopter, 5 M/R shafts that must be removed from a MGB for inspection before installation on a helicopter. We estimate that, at a labor rate of $80 per work hour, it will take approximately:

• 100 work hours for the entire fleet of operators to determine whether they have an affected M/R shaft;

• For the 20 M/R shafts installed in helicopters—80 work hours to remove the MGB and M/R shaft for inspection; 80 work hours to reinstall the M/R shaft and MGB; and 12 work hours to return the aircraft to service;

• For the 5 M/R shafts installed in a MGB, but not installed in a helicopter—2 work hours to remove the M/R shaft from the MGB; and

• 4 work hours to ultrasonic inspect each of the 41 M/R shafts.

Also, we estimate that for the 25 M/R shafts that must be removed from a MGB for inspection, reassembly will require $100 in consumable parts for each MGB. Based on these figures, we estimate that the total cost impact of the AD on U.S. operators will be $299,620, assuming that operators do not find a M/R shaft with a crack.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–28241; Directorate Identifier 2007–SW–07–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Regulatory Findings

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

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

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2007–11–05 Sikorsky Aircraft Corporation: Amendment 39–15062. Docket No. FAA–2007–28241; Directorate Identifier 2007–SW–07–AD.

Applicability: Model S–76A, B and C helicopters with a main rotor shaft assembly (M/R shaft) listed in the following table installed, certificated in any category.

M/R shaft part No.	Serial No.
76351–09030–all dash numbers.	B015–00782 through B015–00791; B015–00811 through B015–00816; E015–00844 through E015–00865; andE015–00908 through E015–00918.
76351–09630–041.	C213–00436 through C213–00454; D213–00537 through D213–00545; andD213–00575 through D213–00585.

Compliance: Required within 75 hours time-in-service, unless accomplished previously.

To detect cracking in the M/R shaft, which could result in separation of the main rotor and subsequent loss of control of the helicopter, accomplish the following:

(a) Perform a one-time ultrasonic inspection of the M/R shaft for cracking in accordance with Nondestructive Testing/Inspection Technique, Ultrasonic Technique (UT) Number 5043, latest version. The ultrasonic inspection of the M/R shaft must be performed by a Level II or Level III inspector, qualified under the guidelines established by MIL–STD–410E, ATA Specification 105, AIA–NAS–410, or an FAA-accepted equivalent for qualification standards of Nondestructive Testing inspection/evaluation personnel. Recurrent training and examinations are part of the qualification requirements.

(1) For Model S–76A, B and C helicopters with a M/R shaft, P/N 76351–09630–041, installed, remove and inspect the M/R shaft in accordance with the Accomplishment Instructions, paragraphs 3.B.(1)(a) through 3.B.(1)(d)*5* of Sikorsky Alert Service Bulletin (ASB) No. 76–66–45A, Revision A, dated February 7, 2007.

(2) For Model S–76A helicopters with a M/R shaft, P/N 76351–09030—all dash numbers, installed, remove and inspect the M/R shaft in accordance with the Accomplishment Instructions, paragraphs 3.B.(1)(a) through 3.B.(1)(d)*5* of Sikorsky ASB No. 76–66–46, dated February 7, 2007.

(3) If a crack is found, replace the M/R shaft with an airworthy M/R shaft that has been ultrasonically inspected in accordance with paragraph (a) of this AD before further flight.

(4) Reassemble the lower bearing housing assembly, install the main gear box, and perform the ground run leak test in accordance with the Accomplishment Instructions, paragraphs 3.B.(1)(f) through 3.B.(1)(l) of either ASB No. 76–66–45A, Revision A or ASB No. 76–66–46, both dated February 7, 2007, as appropriate for your part-numbered M/R shaft.

(b) Before installing an affected M/R shaft, ultrasonically inspect the M/R shaft and reassemble the lower bearing housing assembly, install the main gear box, and perform the ground run leak test in accordance with the requirements of paragraph (a) of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Boston Aircraft Certification Office, FAA, *ATTN:* Kirk Gustafson, Aviation Safety Engineer, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7190, fax (781) 238–7170, for information about previously approved alternative methods of compliance.

(d) The ultrasonic inspection shall be done in accordance with the specified portions of Sikorsky Alert Service Bulletin (ASB) No. 76–66–45A, Revision A, and Sikorsky ASB No. 76–66–46, both dated February 7, 2007. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, Connecticut, phone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at 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.*

(e) This amendment becomes effective on June 15, 2007.

Issued in Fort Worth, Texas, on May 16, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–10126 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24171; Directorate Identifier 2006–NE–08–AD; Amendment 39–15075; AD 2007–11–18]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50C Series Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CF6–50C series turbofan engines. This AD requires reworking certain forward fan stator cases and installing a fan module secondary containment shield. This AD results from reports of uncontained fan blade failures causing damage and separation of airplane hydraulic lines. We are issuing this AD to prevent uncontained fan blade failures, which can result in separation of airplane hydraulic lines, damage to critical airplane systems, and possible loss of airplane control.

DATES: This AD becomes effective July 5, 2007. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 5, 2007.

ADDRESSES: You can get the service information identified in this AD from General Electric Company via GE-Aviation, Attn: Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246, telephone (513) 552–3272; fax (513) 552–3329.

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov*; telephone (781) 238–7773; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to GE CF6–50C series turbofan engines. We published the proposed AD in the **Federal Register** on April 17, 2006 (71 FR 19661). That action proposed to require reworking certain forward fan stator cases and installing a fan module secondary containment shield.

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Reworked and Re-Identified Fan Stator Cases

A private citizen states that some fan stator cases with certain part numbers (P/Ns) listed in the proposed AD might have been be reworked and re-identified to different P/Ns, per GE Service Bulletin (SB) No. CF6–50 S/B 72–0277. The commenter feels that the rework P/Ns should also be listed in the AD.

We agree. We added P/Ns 9173M37G01, G02, G03, G04, G05, and G06 to the list of affected fan stator cases in the AD.

Updated Service Bulletin

Since we issued the proposed AD, GE issued Revision 2 to the SBs incorporated by reference in this AD. These revisions contain minor formatting changes to the text,

incorporate improved illustrations, and add fan stator case P/Ns. We want operators to use the Revision 2 SBs. We removed the incorporations by reference to the original, and Revision 1 of the SBs that appeared in the proposed AD and incorporated by reference Revision 2 of the SBs into this AD.

Compliance Date Is Not Justified by the Risk

FedEx Express states that the proposed AD compliance date of no later than June 30, 2007, is not consistent with the historical importance associated with this design deficiency. They reference GE CF6–50 engine Service Bulletin No. 72–0986, issued in 1991 and revised in 1998, which contain GE's recommended compliance of ''at operator convenience''. FedEx Express states that they feel this recommendation is consistent with their fan blade separation service experience, of never having an event of uncontained fan blades on the CF6–50C engine. FedEx Express further states that they feel that this current regulatory action is only in response to a test cell incident from April 2003. They suggest that this compliance date would create an unnecessary operational and financial burden. FedEx Express requests that the proposed AD action be done only at next engine shop visit.

We partially agree. We reviewed our risk assessment and found that the risk can be managed by extending the compliance date three years. We changed the AD compliance date to no later than June 30, 2010.

We do not agree with eliminating the compliance date. This AD results from six reported fan uncontainment events with hydraulic line damage that occurred during aircraft operation. This is the safety concern we are addressing in this AD. We did not eliminate the compliance date from the AD.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 226 CF6–50C series turbofan engines installed on airplanes of U.S. registry. We also estimate that it will take about 2.5 work hours per engine to perform the actions, and that the average labor rate is $80 per work-hour. Required parts will cost about $9,451 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $2,181,126.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2007–11–18 General Electric Company: Amendment 39–15075. Docket No. FAA–2006–24171; Directorate Identifier 2006–NE–08–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 5, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–50C, CF6–50C1, CF6–50C2, CF6–50C2B, CF6–50C2F, and CF6–50C2R turbofan engines, with a forward fan stator case, part number (P/N) 9064M53G04, GO5, G06, G07, G08, G09, G10, G12, or G13, or P/N 9173M37G01, G02, G03, G04, G05, or G06 installed. These engines are installed on, but not limited to, Airbus A300, McDonnell Douglas DC–10 series, and DC–10–30F (KC–10A, KDC–10) airplanes.

Unsafe Condition

(d) This AD results from reports of uncontained fan blade failures causing damage and separation of airplane hydraulic lines. We are issuing this AD to prevent uncontained fan blade failures, which can result in separation of airplane hydraulic lines, damage to critical airplane systems, and possible loss of airplane control.

Compliance

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

(f) At the next engine shop visit after the effective date of this AD, but no later than June 30, 2010, rework the forward fan stator case and install the fan module secondary containment shield.

(1) For engines on Airbus 300 series airplanes, use paragraph 3, Accomplishment Instructions, of GE Service Bulletin (SB) No. CF6–50 S/B 72–0985, Revision 2, dated March 21, 2007, to do the rework and installation.

(2) For engines on McDonnell Douglas airplanes, use paragraph 3, Accomplishment Instructions, of GE SB No. CF6–50 S/B 72–0986, Revision 2, dated March 21, 2007, to do the rework and installation.

(g) The rework and installation specified in paragraphs (f)(1) through (f)(2) of this AD can also be done on-wing.

Previous Credit

(h) Previous credit is allowed for fan stator cases reworked and containment shields installed using GE SB No. CF6–50 S/B 72–

0985, dated December 2, 1991 or Revision 1, dated September 15, 1998, or GE SB No. CF6–50 S/B 72–0986, dated December 2, 1991 or Revision 1, dated September 15, 1998, before the effective date of this AD.

Alternative Methods of Compliance

(i) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) European Aviation Safety Agency airworthiness directive 2004–0007, dated December 15, 2004, also addresses the subject of this AD.

(k) Contact Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov*; telephone (781) 238–7773; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(l) You must use the General Electric Company service information specified in Table 1 of this AD to perform the rework and installations required by this AD. The Director of the Federal Register approved the incorporation by reference of the documents listed in Table 1 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422, for a copy of this service information. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at 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/cfr/ibr-locations.html.*

TABLE 1.—INCORPORATION BY REFERENCE

Service Bulletin No.	Page	Revision	Date
CF6–50 S/B 72–0985 ..... *Total Pages:* 13	All	2	March 21, 2007.
CF6–50 S/B 72–0986 ..... *Total Pages:* 13	All	2	March 21, 2007.

Issued in Burlington, Massachusetts, on May 22, 2007.

Peter A. White,

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

[FR Doc. E7–10316 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28114; Directorate Identifier 2007–CE–044–AD; Amendment 39–15076; AD 2007–11–19]

RIN 2120–AA64

Airworthiness Directives; MORAVAN a.s. Model Z242L Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Installation of G-load monitoring units on some Zlin Z 42 series airplanes has revealed that certain aircraft during aerobatic manoeuvres exceeded the limit loads initially defined for the certification.

As a consequence to restore the safety margins on aircraft operated in Utility (''U'') category; this Airworthiness Directive (AD) mandates a modification of the Airplane Flight Manual (AFM) so as to limit the permissible manoeuvres in ''U'' category flights.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective June 5, 2007.

On June 5, 2007 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by July 2, 2007.

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

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

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

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European

Community, has issued Emergency AD No: 2007–110–E, dated April 23, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Installation of G-load monitoring units on some Zlin Z 42 series airplanes has revealed that certain aircraft during aerobatic manoeuvres exceeded the limit loads initially defined for the certification.
>
> As a consequence to restore the safety margins on aircraft operated in Utility (''U'') category; this Airworthiness Directive (AD) mandates a modification of the Airplane Flight Manual (AFM) so as to limit the permissible manoeuvres in ''U'' category flights.

You may obtain further information by examining the MCAI in the AD.

Relevant Service Information

Moravan Aviation s.r.o. has issued Mandatory Service Bulletin Z242L/49a, dated February 15, 2007, which incorporates the AFM revision 8, dated November 24, 2006, which limits certain maneuvers in Utility Category. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

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

Differences Between This AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule, because there is a risk of structural damage in the wing area if the currently allowed maneuvers in the Utility Category are continued. It is imperative that the required limitations take effect immediately, so the operator is aware of these changes and does not exceed the new limits needed in order to maintain the integrity of the structure. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–28114; Directorate Identifier 2007–CE–044–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–11–19 MORAVAN a.s.: Amendment 39–15076; Docket No. FAA–2007–28114; Directorate Identifier 2007–CE–044–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 5, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model Z242L airplanes, serial numbers 0490, 0541, and 0651 through 0659, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 5: Time Limits.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Installation of G-load monitoring units on some Zlin Z 42 series airplanes has revealed that certain aircraft during aerobatic manoeuvres exceeded the limit loads initially defined for the certification.

As a consequence to restore the safety margins on aircraft operated in Utility (''U'') category; this Airworthiness Directive (AD) mandates a modification of the Airplane Flight Manual (AFM) so as to limit the permissible manoeuvres in ''U'' category flights.

Actions and Compliance

(f) Unless already done, within 10 days after June 5, 2007 (the effective date of this AD) modify the Limitations Section of the Airplane Flight Manual (AFM) following Moravan Aviation s.r.o. Mandatory Service Bulletin Z242L/49a, dated February 15, 2007, by incorporating AFM, revision 8, dated November 24, 2006.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et.seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to European Aviation Safety Agency (EASA) Emergency AD No: 2007–0110–E, dated April 23, 2007; and Moravan Aviation s.r.o. Mandatory Service Bulletin Z242L/49a, dated February 15, 2007, for related information.

Material Incorporated by Reference

(i) You must use Moravan Aviation s.r.o. Mandatory Service Bulletin Z242L/49a, dated February 15, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Moravan Aviation s.r.o., ZLIN Service, 765 81 Otrokovice, Czech Republic.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at 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/cfr/ibr-locations.html.

Issued in Kansas City, Missouri on May 22, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10237 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–27072 Airspace Docket No. 07–AWP–1]

RIN 2120–AA66

Modification of Class E Airspace; St. Johns, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace area at St. Johns, AZ. The establishment of an Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 32 at St. Johns Industrial Air Park, St. Johns, AZ, has made this action necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS) IAP to RWY 32 at St. Johns Industrial Air Park makes this proposal necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the RNAV (GPS) SIAP to RWY 32 at St. Johns Industrial Air Park, St. Johns, AZ.

EFFECTIVE DATE: 0901 UTC, August 30, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Francie Hope, System Support Specialist, Western Service Center, Federal Aviation Administration, 1601 Lind Ave. SW., Renton, Washington 98056; telephone (425) 917–6721.

SUPPLEMENTARY INFORMATION:

History

On March 12, 2007, the FAA proposed to amend 14 CFR part 71 by establishing a Class E Airspace area at St. Johns Industrial Air Park, St. Johns, AZ (72 FR 10953). Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS) SIAP to RWY 32 at St. Johns Industrial Air Park, St. Johns, AZ. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Class E airspace area at St. Johns Industrial Air Park, St. Johns, AZ. The establishment of an Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 32 at St. Johns Industry Air Park, St. Johns, AZ., has made this action necessary.

Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS) SIAP to RWY 32 at St. Johns Industrial Air Park, St. Johns, AZ.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is Incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above.

* * * * *

AWP AZ E5 St. Johns, AZ [Amended]

St. Johns Industrial Air Park, AZ
(Lat. 34 31′07″ N, long. 109 22′ 44″ W)
St. Johns VORTAC
(Lat. 34 25′27″ N, long. 109 08′ 37″ W)

That airspace extending upward from 700 feet above the surface within 4.3 miles each side of the St. Johns VORTAC 296° radial extending from the St. Johns VORTAC to 23 miles northwest of the VORTAC, and that airspace beginning at lat. 34°23′30″ N, long. 109°14′30″ W, to lat. 34°22′00″ N, long. 109°20′00″ W, to lat. 34°26′00″ N, long. 109°21′00″ W, to the point of beginning. That airspace extending upward from 1,200 feet above the surface within 8.7 miles southeast and 6.1 miles northwest of the St. Johns VORTAC 067° and 247° radials, extending from the 7.8 miles northeast to 17.4 miles southwest of the VORTAC, excluding the portion within the state of New Mexico, and that airspace beginning at lat. 34°47′41″ N, long. 109°49′22″ W, to lat. 34°42′54″ N, long. 109°35′03″ W, to lat. 34°40′56″ N, long. 109°37′33″ W, to lat. 34°47′33″ N, long. 109°54′19″ W, to the point of beginning and that airspace bounded by lat. 34°37′06″ N, long. 109°48′33″ W, to lat. 34°28′39″ N, long. 109°2′729″ W, to lat. 34°26′21″ N, long. 109°41′35″ W, to lat.34°33′51″ N, long, 109°52′12″ W, to the point of beginning.

* * * * *

Issued in Seattle, Washington, on May 11, 2007.

Clark Desing,

Manager, System Support Group Western Service Center.

[FR Doc. E7–10259 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30551 Amdt. No. 3219]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or 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 31, 2007. The compliance date for each SIAP and/or Weather Takeoff Minimums 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 31, 2007.

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

For Examination—

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

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

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 and Weather Takeoff Minimums 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 and Weather Takeoff Minimums 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 of the Code of Federal Regulations, Part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, 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 and/or Weather Takeoff Minimums but refer to their 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 and/or Weather Takeoff Minimums 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 and/or Weather Takeoff Minimums. 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 and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

The FAA has determined that this regulation involves only 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 18, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums 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:

Effective 05 July 2007

McGrath, AK, McGrath, RNAV (GPS) RWY 16, Orig
McGrath, AK, McGrath, LOC/DME RWY 16, Amdt 3
McGrath, AK, McGrath, VOR-A, Amdt 8
McGrath, AK, McGrath, VOR/DME-C, Amdt 1
McGrath, AK, McGrath, VOR/DME OR TACAN RWY 16, Amdt 1
McGrath, AK, McGrath, GPS RWY 16, Orig, CANCELLED
McGrath, AK, McGrath, Takeoff Minimums and Obstacle DP, Amdt 2
St. Michael, AK, St. Michael, RNAV (GPS) RWY 20, Amdt 1
Selawik, AK, Selawik, RNAV (GPS) RWY 4, Orig
Selawik, AK, Selawik, RNAV (GPS) RWY 27, Orig
Selawik, AK, Selawik, RNAV (GPS) Y RWY 22, Orig
Selawik, AK, Selawik, RNAV (GPS) Z RWY 22, Orig
Selawik, AK, Selawik, VOR RWY 4, Amdt 1
Selawik, AK, Selawik, VOR RWY 22, Amdt 1
Selawik, AK, Selawik, GPS RWY 27, Orig, CANCELLED
Selawik, AK, Selawik, Takeoff Minimums and Obstacle DP, Amdt 1
Auburn, AL, Auburn-Opelika Robert G Pitts, ILS OR LOC RWY 36, Orig
Auburn, AL, Auburn-Opelika Robert G Pitts, LOC RWY 36, Amdt 3, CANCELLED
Auburn, AL, Auburn-Opelika Robert G Pitts, Takeoff Minimums and Textual DP, Orig
Birmingham, AL, Birmingham Intl, ILS OR LOC/DME RWY 24, Amdt 1
Decatur, AL, Pryor Field Rgnl, RNAV (GPS) RWY 36, Amdt 1
Hartselle, AL, Rountree Field, RNAV (GPS) RWY 18, Orig
Hartselle, AL, Rountree Field, RNAV (GPS) RWY 36, Orig
Hartselle, AL, Rountree Field, GPS RWY 36, Orig, CANCELLED
Hartselle, AL, Rountree Field, NDB OR GPS-A, Amdt 2, CANCELLED
Hartselle, AL, Rountree Field, Takeoff Minimums and Obstacle DP, Amdt 2
Ozark, AR, Ozark-Franklin County, Takeoff Minimums and Obstacle DP, Amdt 1
Hayward, CA, Hayward Executive, RNAV (GPS) Y RWY 28L, Orig
Hayward, CA, Hayward Executive, RNAV (GPS) Z RWY 28L, Orig
Hayward, CA, Hayward Executive, GPS RWY 28L, Orig-A, CANCELLED
Long Beach, CA, Long Beach/Daugherty Field, Takeoff Minimums and Obstacle DP, Amdt 4
Colorado Springs, CO, City of Colorado Springs Muni, ILS OR LOC RWY 35R, Orig
Colorado Springs, CO, City of Colorado Springs Muni, RNAV (GPS) RWY 35R, Amdt 2
Pueblo, CO, Pueblo Memorial, RNAV (GPS) RWY 26R, Amdt 1A
Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 12, Amdt 8
Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 19L, Amdt 13
Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19L, Amdt 7
Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19R, Amdt 7
Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 19R, ILS RWY 19R (CAT II), ILS RWY 19R, (CAT III), Amdt 24
Dover/Cheswold, DE, Delaware Airpark, Takeoff Minimums and Obstacle DP, Orig
Dover/Cheswold, DE, Delaware Airpark, RNAV (GPS) RWY 9, Orig
Dover/Cheswold, DE, Delaware Airpark, GPS RWY 9, Amdt 1, CANCELLED
Dover/Cheswold, DE, Delaware Airpark, RNAV (GPS) RWY 27, Orig
Dover/Cheswold, DE, Delaware Airpark, GPS RWY 27, Amdt 1, CANCELLED
Middletown, DE, Summit, RNAV (GPS) RWY 17, Amdt 1A
Daytona Beach, FL, Daytona Beach Intl, LOC BC RWY 25R, Amdt 16
Fort Myers, FL, Southwest Florida Intl, RNAV (GPS) RWY 6, Amdt 1B
Fort Myers, FL, Southwest Florida Intl, RNAV (GPS) RWY 24, Amdt 1B
Fort Myers, FL, Southwest Florida Intl, VOR/DME OR TACAN RWY 23, Orig, CANCELLED
Fort Myers, FL, Southwest Florida Intl, NDB RWY 5, Orig, CANCELLED
Fort Myers, FL, Southwest Florida Intl, LOC RWY 5, Orig, CANCELLED

Melbourne, FL, Melbourne Intl, Takeoff Minimums and Obstacle DP, Amdt 1
St Petersburg, FL, Albert Whitted, RNAV (GPS) RWY 6, Orig
St Petersburg, FL, Albert Whitted, RNAV (GPS) RWY 18, Orig
St Petersburg, FL, Albert Whitted, RNAV (GPS) RWY 36, Orig
St Petersburg, FL, Albert Whitted, VOR RWY 18, Amdt 7
Tampa, FL, Tampa Intl, Takeoff Minimums and Textual DP, Amdt 7
Albany, GA, Southwest Georgia Regional, NDB RWY 4, Amdt 12
Atlanta, GA, Cobb County-McCollum Field, RNAV (GPS) RWY 9, Amdt 2
Atlanta, GA, Cobb County-McCollum Field, RNAV (GPS) RWY 27, Amdt 2
Atlanta, GA, Fulton County Arpt-Brown Field, RNAV (GPS) RWY 26, Orig
Atlanta, GA, Fulton County Arpt-Brown Field, RNAV (GPS) Y RWY 8, Orig
Atlanta, GA, Fulton County Arpt-Brown Field, GPS RWY 26, Orig, CANCELLED
Honolulu, HI, Honolulu Intl, RNAV (RNP) Z RWY 4R, Orig
Honolulu, HI, Honolulu Intl, RNAV (GPS) Y RWY 4R, Amdt 1
Lihue, HI, Lihue, VOR-A, Amdt 4
Lihue, HI, Lihue, VOR/DME OR TACAN RWY 21, Amdt 4
Lihue, HI, Lihue, VOR OR TACAN RWY 35, Amdt 7
Lihue, HI, Lihue, RNAV (GPS) Y RWY 21, Orig-B
Lihue, HI, Lihue, RNAV (RNP) Z RWY 21, Orig
Lihue, HI, Lihue, RNAV (GPS) Y RWY 35, Orig-D
Lihue, HI, Lihue, RNAV (RNP) Z RWY 35, Orig
Chicago, IL, Chicago-O'Hare Intl, RNAV (GPS) RWY 32L, Amdt 2
Chicago, IL, Chicago-O'Hare Intl, RNAV (GPS) RWY 32R, Amdt 1
Chicago, IL, Chicago-O'Hare Intl, Takeoff Minimums and Obstacle DP, Amdt 14
Estherville, IA, Estherville Muni, RNAV (GPS) RWY 16, Amdt 1
Estherville, IA, Estherville Muni, RNAV (GPS) RWY 34, Amdt 1
Estherville, IA, Estherville Muni, Takeoff Minimums and Obstacle DP, Orig
Garden City, KS, Garden City Regional, RNAV (GPS) RWY 12, Orig
Garden City, KS, Garden City Regional, RNAV (GPS) RWY 17, Orig
Garden City, KS, Garden City Regional, RNAV (GPS) RWY 30, Orig
Garden City, KS, Garden City Regional, RNAV (GPS) RWY 35, Orig
Garden City, KS, Garden City Regional, VOR RWY 17, Amdt 11
Garden City, KS, Garden City Regional, VOR/DME RWY 30, Amdt 1
Garden City, KS, Garden City Regional, VOR/DME RWY 35, Amdt 2
Garden City, KS, Garden City Regional, Takeoff Minimums and Textual DP, Orig
Elizabethtown, KY, Addington Field, LOC RWY 5, Orig
Middlesboro, KY, Middlesboro-Bell County, Takeoff Minimums and Obstacle DP, Orig
Vineyard Haven, MA, Marthas Vineyard, ILS OR LOC RWY 24, Amdt 2
Vineyard Haven, MA, Marthas Vineyard, RNAV (GPS) RWY 6, Orig
Vineyard Haven, MA, Marthas Vineyard, RNAV (GPS) RWY 24, Amdt 1
Detroit, MI, Detroit Metropolitan Wayne County, ILS OR LOC RWY 22L, Amdt 28
Bolivar, MO, Bolivar Municipal, RNAV (GPS) RWY 18, Orig
Bolivar, MO, Bolivar Municipal, RNAV (GPS) RWY 36, Orig
Bolivar, MO, Bolivar Municipal, GPS RWY 18, Orig, CANCELLED
Bolivar, MO, Bolivar Municipal, GPS RWY 36, Orig, CANCELLED
Bolivar, MO, Bolivar Municipal, Takeoff Minimums and Obstacle DP, Orig
Columbus/W Point/Starkville, MS, Golden Triangle Regional, GPS RWY 18, Orig-A, CANCELLED
Columbus/W Point/Starkville, MS, Golden Triangle Regional, RNAV (GPS) RWY 18, Orig
Laurel, MS, Hesler-Noble Field, RNAV (GPS) RWY 13, Orig
Laurel, MS, Hesler-Noble Field, RNAV (GPS) RWY 31, Orig
Laurel, MS, Hesler-Noble Field, GPS RWY 13, Orig, CANCELLED
Laurel, MS, Hesler-Noble Field, GPS RWY 31, Orig, CANCELLED
Starkville, MS, George M Bryan, LOC/DME RWY 36, Orig
Anaconda, MT, Bowman Field, Takeoff Minimums and Obstacle DP, Amdt 1
Imperial, NE, Imperial Muni, RNAV (GPS) RWY 13, Orig
Imperial, NE, Imperial Muni, RNAV (GPS) RWY 31, Amdt 1
Newark, NJ, Newark Liberty Intl, RNAV (GPS) Z RWY 22L, Amdt 1B
Akron, OH, Akron-Canton Rgnl, Radar 1, Amdt 23
Salem, OR, McNary Fld, ILS OR LOC RWY 31, Amdt 28
Latrobe, PA, Arnold Palmer Regional, ILS OR LOC RWY 23, Amdt 16
Latrobe, PA, Arnold Palmer Regional, RNAV (GPS) RWY 5, Orig
Latrobe, PA, Arnold Palmer Regional, RNAV (GPS) RWY 23, Orig
Latrobe, PA, Arnold Palmer Regional, GPS RWY 05, Orig, CANCELLED
Pottstown, PA, Pottstown Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Darlington, SC, Darlington County Jetport, RNAV (GPS) RWY 23, Orig
Darlington, SC, Darlington County Jetport, NDB RWY 23, Amdt 1
Darlington, SC, Darlington County Jetport, Takeoff Minimums and Obstacle DP, Orig
Darlington, SC, Darlington County Jetport, VOR/DME-A, Amdt 7
Elizabethton, TN, Elizabethton Muni, Takeoff Minimums and Textual DP, Orig
Nashville, TN, Nashville Intl, ILS OR LOC RWY 2R, Amdt 6, ILS RWY 2R (CAT II), ILS RWY 2R (CAT III)
Nashville, TN, Nashville Intl, ILS OR LOC RWY 31, Amdt 8
Dallas, TX, Dallas Love Field, ILS OR LOC RWY 31L, Amdt 20
Dallas, TX, Dallas Love Field, ILS OR LOC RWY 31R, Amdt 4
Dallas, TX, Dallas Love Field, RNAV (GPS) Y RWY 13L, Orig
Dallas, TX, Dallas Love Field, RNAV (GPS) Y RWY 13R, Orig
Dallas, TX, Dallas Love Field, RNAV (GPS) Z RWY 13L, Orig-A
Dallas, TX, Dallas Love Field, RNAV (GPS) Z RWY 13R, Orig-A
Front Royal, VA, Front Royal-Warren County, RNAV (GPS)-A, Orig
Lynchburg, VA, Falwell, Takeoff Minimums and Obstacle DP, Amdt 1
Newport News, VA, Williamsburg Intl, Takeoff Minimums and Obstacle DP, Orig
Wise, VA, Lonesome Pine, RNAV (GPS) RWY 6, Orig
Pasco, WA, Tri-Cities, ILS OR LOC RWY 21R, Amdt 11
Pasco, WA, Tri-Cities, RNAV (GPS) RWY 21R, Orig
Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC/DME RWY 34C, Amdt 1, ILS RWY 34C (CAT II)
Eagle River, WI, Eagle River Union, RNAV (GPS) RWY 22, Orig
Eagle River, WI, Eagle River Union, NDB RWY 22, Amdt 6

[FR Doc. E7–10265 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30552; Amdt. No. 3220]

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 31, 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 31, 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 modifiedby the 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 18, 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:

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 Number	Subject
05/07/07	CA ...	DAVIS/WOODLAND/WINTERS	YOLO COUNTY-DAVIS/WOODLAND/WINTERS.	7/0469	VOR RWY 34, ORIG
05/10/07	AK ...	KOYUK	KOYUK ALFRED ADAMS	7/0925	NDB/DME RWY 1, AMDT 1
05/10/07	AK ...	KOYUK	KOYUK ALFRED ADAMS	7/0930	NDB RWY 1, AMDT 1

[FR Doc. E7–10250 Filed 5–30–07; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 060518134–6246–02]

RIN 0605–AA22

Disclosure of Government Information; Responsibility for Responding to Freedom of Information Act Requests

AGENCY: Department of Commerce.
ACTION: Final rule.

SUMMARY: The Department of Commerce (Commerce) publishes this action to finalize its interim final rule that established the date that the Department uses in identifying those records that it may consider when responding to a Freedom of Information Act request. The Department takes this action pursuant to a court order that enjoined it from further use of its regulations.

DATES: This rule is effective on May 31, 2007.

FOR FURTHER INFORMATION CONTACT: Brenda Dolan, 202–482–3258.

SUPPLEMENTARY INFORMATION: On June 1, 2006, the Department of Commerce published and requested comments on an interim final rule that amended its regulations to establish the date that the Department uses in identifying those records that it may consider when responding to a Freedom of Information Act request (71 FR 31073). The interim final rule revised the regulations to state that the records that are considered responsive to a FOIA request include those records that are within the Department's possession and control as of the date the Department begins its search for those records. We received no public comments on the interim final rule. Therefore, the provisions of the interim final rule published on June 1, 2006 are adopted without change.

Classification

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

The Department finds good cause to waive the 30-day delay in effectiveness required by 5 U.S.C. 553(d)(3). In order to implement, in a timely manner, the Department's new regulation that establishes the date that the Department uses in identifying those records that it may consider when responding to a request for records, the Department waives the 30-day delay in effectiveness. If the Department delayed the effectiveness of this action, the Department would violate an April 24, 2006 court order that requires the Department to no longer use the regulations. To ensure timely compliance with the Court's order, the Department makes this rule effective upon publication.

Dated: May 23, 2007.

Brenda Dolan,

Departmental Freedom of Information and Privacy Act Officer.

List of Subjects in 15 CFR Part 4

Freedom of Information and Privacy.

■ For the reasons set forth above, the Department adopts without change the provisions in the interim final rule published on June 1, 2006 (71 FR 31073).

[FR Doc. E7–10435 Filed 5–30–07; 8:45 am]
BILLING CODE 3510–17–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–012]

RIN 1625–AA08

Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, VA

AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily establishing special local regulations for ''Sail Virginia 2007'' marine event. This action is necessary to provide for the safety of life on navigable waters before, during, and after Sail Virginia 2007 activities. This special local regulation is intended to restrict vessel traffic in the vicinity of the tall ship parade as the parade transits the Chesapeake Bay, Hampton Roads, the James and Elizabeth Rivers and Norfolk Harbor.

DATES: This rule is effective from 6 a.m. June 8, 2007 to 11 p.m. on June 9, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05–07–012) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG TaQuitia Winn, U.S. Coast Guard Sector Hampton Roads, at (757) 668–5580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 19, 2007, we published a Notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, Virginia in the **Federal Register** (72 FR 12746). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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

Background and Purpose

During the period June 7–12, 2007, the City of Norfolk and Norfolk Festevents Ltd. will sponsor ''Sail Virginia 2007'', a tall ships marine event. The six-day event will include more than twenty tall ships from around the world in recognition of the Jamestown 1606–1607 voyage, commemorating the 400th anniversary of our nation's birth place. More than 25 tall ships from around the world have been invited to participate.

Planned events in the Port of Hampton Roads include: The arrival of more than 20 tall ships and other vessels at Lynnhaven Anchorage on June 7 and 8, 2007; a Parade of Sail of approximately 20 tall ships and other vessels from their respective anchorages to Town Point Park, downtown Norfolk, on June 8, 2007; fireworks display adjacent to the Norfolk and Portsmouth seawalls on June 9, 2007; and the scheduled departure of the majority of vessels on June 12, 2007. This event will be combined with the annual Norfolk Harborfest held each June.

The parade of sails event planned during this period will be conducted on the waters of the Chesapeake Bay, Hampton Roads the Elizabeth River and Norfolk Harbor, Virginia. Vessels participating in the ''Tall Ships Parade of Sails'' will rendezvous on June 8, 2007 in the vicinity of Thimble Shoal Channel lighted bell buoy ''13'' LLNR

9275 as depicted on NOAA Chart 12222 and will proceed inbound through the Elizabeth River to Norfolk Harbor Entrance Reach terminating at the Norfolk Harbor waterfront.

On the evening of June 9, 2007, a fireworks display will be launched from several barges in Norfolk harbor. The fireworks hazardous fall out area will extend on and over Norfolk harbor waters. A fleet of spectator vessels is expected to gather near the event site to view the fireworks display. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

The Coast Guard anticipates numerous spectator craft for these events. Operators should expect significant vessel congestion along the parade route and viewing areas for the fireworks display.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Hampton Roads during the ''Tall Ship's Parade of Sails'' event. The regulations will establish a clear parade route for the participating vessels and no wake zones along the parade route. The regulations will impact the movement of all vessels operating in the specified areas of the port.

Vessel operators are also reminded that Norfolk Naval Base will be strictly enforcing the existing restricted area defined at 33 CFR 334.300 during all Sail Virginia 2007 activities.

We recommend that vessel operators visiting the Port of Hampton Roads for this event obtain up to date editions of the following charts of the area: Nos. 12222, 12245, 12253, and 12254 to avoid anchoring within charted cable or pipeline areas.

With the arrival of Sail Virginia 2007 and spectator vessels in the Port of Hampton Roads for this event, it may be necessary to curtail normal port operations to some extent. Interference will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled events.

Because of the danger posed by numerous sailing vessels maneuvering in close proximity of each other during the parade, special local regulations are necessary. For the safety concerns noted and to address the need for vessel control and vessel safety, all vessel traffic will be temporarily restricted in the vicinity of the parade to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the Notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Port of Hampton Roads, Virginia.

The Coast Guard previously stated in the preamble for the Notice of proposed rulemaking (NPRM) for this temporary final rule published on March 19, 2007, entitled Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, Virginia in the **Federal Register** (72 FR 12746), that it would implement the regulation found at 33 CFR 100.501 for the fireworks portion of this event. The intent of that statement in the NPRM was to convey that a regulated area of the same dimensions as that found at 33 CFR 100.501 would be implemented as part of this regulation to provide safety for the maritime community during this fireworks event. As the regulatory text for this area was already in place at 33 CFR 100.501, we did not include a description of that regulated area in the NPRM for this event.

The Coast Guard will not implement that regulation at 33 CFR 100.501 as was previously discussed in the NPRM for this event. The regulation at 33 CFR 100.501 is intended to be implemented for marine events listed at Table 1 of 33 CFR 100.114. Instead of stating we will implement the regulation found at 33 CFR 100.501 in this final rule, we are publishing the dimensions of the regulated area found at 33 CFR 100.501 and describing for clarity in this temporary final rule our original intention—to use those dimensions for a regulated area for the fireworks event described herein.

Thus in an effort to make this rule more clearly understood we describe the regulated area here and in the regulatory text herein that will be enforced during the fireworks display on the evening of June 9, 2007 in Norfolk harbor, Virginia. The fireworks fall out area will include the following regulated area: The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50′51.0″ North, longitude 76°18′09.0″ West and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51′00.0″ North, longitude 76°17′52.0″ West; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50′50.0″ North, longitude 76°18′10.0″ West, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50′29.0″ North, longitude 76°17′52.0″ West; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50′10.0″ North, longitude 76°17′47.0″ West, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50′08.0″ North, longitude 76°17′39.0″ West; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50′21.5″ North, longitude 76°17′14.5″ West, and Norfolk at latitude 36°50′35.0″ North, longitude 76°17′10.0″ West.

Regulatory Evaluation

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

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

The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the Parade of Sail. Although these regulations prevent traffic from transiting a portion of the Chesapeake Bay and Elizabeth River during this event, that restriction is limited to approximately seven hours in duration, affects only a limited area that is totally contained within an already established regulated navigation area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the nature of the event itself may hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk Harbor from 7 a.m. until 3 p.m. June 8, 2007 during this event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: This rule would be in effect for only a limited period, affect only limited areas that are totally contained within an already established regulated navigation area, and marine advisories will be issued allowing mariners to adjust their plans accordingly. Vessel traffic may be allowed to pass through the regulated areas with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through a regulated area during an event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, and Department of Homeland Security Management Directive 5100.1 which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically

excluded, under figure 2–1, paragraph (34) (h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35-T05–012 to read as follows:

§ 100.35–T05–012, Special Local Regulations; Sail Virginia 2007, Port of Hampton Roads, VA.

(a) *Regulated area.* (1) The regulated area in support of the ''Sail Virginia 2007'' parade of sails marine event includes navigable waters within and 100 yards abeam of, 300 yards ahead of, and all waters between participating vessels transiting the Chesapeake Bay Thimble Shoal Channel, Hampton Roads Norfolk Harbor Entrance Reach, Elizabeth River Craney Island Reach, Lambert Bend, Lambert Bend to Pinner Point, Pinner Point to Town Point Reach, Town Point Reach to Norfolk Harbor, Virginia.

(2) The fireworks fall out area will include the following regulated area: The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50′51.0″ North, longitude 76°18′09.0″ West and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51′00.0″ North, longitude 76°17′52.0″ West; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50′50.0″ North, longitude 76°18′10.0″ West, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50′29.0″ North, longitude 76°17′52.0″ West; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50′10.0″ North, longitude 76°17′47.0″ West, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50′08.0″ North, longitude 76°17′39.0″ West; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50′21.5″ North, longitude 76°17′14.5″ West, and Norfolk at latitude 36°50′35.0″ North, longitude 76°17′10.0″ West.

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

(2) Official Patrol means any person or vessel authorized by the Coast Guard Patrol Commander or approved by Commander, Coast Guard Sector Hampton Roads to enforce this special local regulation.

(3) Sail Virginia 2007 Vessels includes all vessels participating in Sail Virginia 2007 under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(4) Parade of sail is the inbound procession of Sail Virginia 2007 vessels as they navigate designated routes in the Port of Hampton Roads on June 8, 2007.

(5) Spectator vessel includes any vessel, commercial or recreational, being used for pleasure or carrying passengers that are in the Port of Hampton Roads to observe part or all of the events attendant to Sail Virginia 2007.

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

(2) Any person in the regulated area must stop immediately when directed to do so by any Official Patrol and then proceed only as directed.

(3) All persons and vessels shall comply with the instructions of the Official Patrol.

(4) When authorized to transit within the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the parade and near other persons and vessels.

(4) The Coast Guard vessels enforcing this section can be contacted on VHF–FM Marine Band Radio, Channels 13 and 16. Coast Guard Sector Hampton Roads can be contacted at telephone number (757) 638–6633.

(5) Coast Guard Sector Hampton Roads will notify the public of changes in the status of this section by Marine Safety Radio Broadcast on VHF–FM Marine Band Radio, Channel 22 (157.1 MHz).

(d) *Enforcement period.* This section will be enforced from 6 a.m. June 8, 2007, to 11 p.m. June 9, 2007.

Dated: May 15, 2007.

Larry L. Hereth,

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

[FR Doc. E7–10504 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–016]

RIN 1625–AA08

Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Ocean City Maryland Offshore Challenge'', a power boat race to be held on the waters of the Atlantic Ocean adjacent to the shoreline at Ocean City, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the regulated area during the power boat race.

DATES: This rule is effective from 9 a.m. to 5 p.m. on June 16 and 17, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05–07–016) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 21, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, MD in the **Federal Register** (72 FR 13219). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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

Background and Purpose

On June 16 and 17, 2007, the Offshore Performance Association, Inc. will conduct the ''Ocean City Maryland Offshore Challenge'', on the waters of the Atlantic Ocean along the shoreline near Ocean City, MD. The event will consist of approximately 45 V-hull and twin-hull inboard hydroplanes racing in heats counter-clockwise around an oval race course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

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

The Coast Guard changed the regulated area by moving it 700 yards in an easterly direction away from the shoreline thereby increasing the safety buffer between the race course and the Ocean City, Maryland shoreline. The changes to the race course have placed the western boundary of the regulated area approximately 1000 yards offshore and parallel with the Ocean City, Maryland shoreline.

Regulatory Evaluation

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

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

Although this regulation will prevent traffic from transiting a small segment of the Atlantic Ocean near Ocean City, MD during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be enforced. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers, and local radio stations, so mariners can adjust their plans accordingly.

Small Entities

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

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

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Although the regulated area will apply to waters of the Atlantic Ocean near the Ocean City, Maryland shoreline, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard patrol commander. In the case where the patrol commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to

minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35–T05–016 to read as follows:

§ 100.35-T05–016 Atlantic Ocean, Ocean City, MD.

(a) *Regulated area.* The regulated area is established for the waters of the Atlantic Ocean bounded by a line drawn from a position along the shoreline near Ocean City, MD at latitude 38°22′01″ N, longitude 075°03′29″ W, thence easterly to latitude 38°21′50″ N, longitude 075°03′00″ W, thence southwesterly to latitude 38°20′10″ N, longitude 075°03′42″ W, thence westerly to a position near the shoreline at latitude 38°20′15″ N, longitude 075°04′12″ W, thence northerly along the shoreline to the point of origin. All coordinates reference Datum NAD 1983.

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

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

(3) *Participant* includes all vessels participating in the Ocean City Maryland Offshore Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

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

(2) The operator of any vessel in the regulated area must stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(3) All persons and vessels shall comply with the instructions of the Official Patrol.

(4) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 5 p.m. on June 16 and 17, 2007.

Dated: May 15, 2007.

L.L. Hereth,

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

[FR Doc. E7–10506 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–07–012]

Drawbridge Operation Regulations; Illinois Waterway, Beardstown, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operations of the Burlington Northern Santa Fe Railroad Bridge, Mile 88.8, at Beardstown, Illinois across the Illinois Waterway. The deviation is necessary to allow time for replacement of rail ties which only can be done when the bridge is in the closed-to-navigation position. This deviation allows the bridge to remain closed-to-navigation during a 4-hour

interval each day for eight days in a two week period.

DATES: This deviation is effective from 9 a.m. June 4, 2007, to 1 p.m. June 14, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Room 2.107F in the Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 314–269–2300. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION: The Burlington Northern Santa Fe Railway Company requested a temporary deviation for the Burlington Northern Santa Fe Railroad Bridge, mile 88.8, at Beardstown, Illinois across the Illinois Waterway. It has a vertical clearance of 19.6 feet above normal pool in the closed position. The Burlington Northern Santa Fe Railroad Bridge currently operates in accordance with 33 CFR 117.393(a) which requires that the bridge be maintained in the open-to-navigation position; closing only when a train needs to transit the bridge.

The deviation period is from 9 a.m. to 1 p.m., each day, June 4–7 and 11–14, 2007, when the draw span will be maintained in the closed-to-navigation position. During this time rail ties will be pulled from the tracks and replaced. Both commercial vessels and recreational watercraft use the waterway. Most commercial vessels can not pass underneath the bridge while it is in the closed position. If an emergency arises, it would be possible to open the bridge, once workers and equipment have been moved from the drawspan. There are no alternate routes for vessels transiting this section of the Illinois Waterway. The Corps of Engineers will be performing repairs to the Melvin Price Lock and Dam, mile 200.8, Upper Mississippi River for maintenance from May 10 to June 24, 2007 which will minimize commercial vessel movements between the bridge and the lock locations. Minimal impact to navigation is expected.

In accordance with 33 CFR 117.35(c), the drawbridge shall return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 21, 2007.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. E7–10496 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–014]

RIN 1625–AA00

Safety Zone; Baileys Harbor Fireworks, Baileys Harbor, Baileys Harbor, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard has established a temporary safety zone on Baileys Harbor, Baileys Harbor, WI. This zone is intended to restrict vessels from a portion of Baileys Harbor during the Baileys Harbor July 5, 2007 fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9 p.m. to 11 p.m. on July 5, 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 [CGD09–07–014] and are available for inspection or copying at Coast Guard Sector Lake Michigan (spw), 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 2, 2007, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Baileys Harbor Fireworks, Baileys Harbor, Baileys Harbor, WI in the **Federal Register** (72 FR 24196). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Comments and Changes

No comments were received concerning this rule. No changes were made.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The Coast Guard's use of this safety zone will be temporary lasting only two hours. This safety zone has been designed to allow vessels to transit unrestricted to portions of the harbor not affected by the zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this zone.

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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–

121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this proposed rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34) (g), of the Instruction, from further environmental documentation. This rule establishes a regulated navigation area and as such is covered by this paragraph.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–014 to read as follows:

§ 165.T09–014 Safety zone; Baileys Harbor Fireworks, Baileys Harbor, Baileys Harbor, WI.

(a) *Location.* The following area is a temporary safety zone: all waters of Lake Michigan, Baileys Harbor, within the arc of a circle with a 600-foot radius

from the fireworks launch site located in position 45°04′03″ N, 087°06′08″ W (NAD 83).

(b) *Effective period.* This regulation is effective from 9 p.m. to 11 p.m. on July 5, 2007.

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

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

(3) ''On-scene representative'' of the Captain of the Port Lake Michigan means any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his behalf and is aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: May 14, 2007.

Bruce C. Jones,

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

[FR Doc. E7–10444 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–003]

RIN 1625–AA00

Safety Zone, Kenosha Harbor, Kenosha, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Kenosha Harbor at the east end of the south pier. This zone is intended to restrict vessels from portions of Lake Michigan and Kenosha Harbor during a fireworks display on August 11, 2007. This zone is necessary to protect the public from the hazards associated with fireworks displays.

DATES: This rule is effective from 8 p.m. to 10 p.m. on August 11, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–07–003 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin, 53207 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, Prevention Department, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, (414) 747–7154.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 22, 2007, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone, Kenosha Harbor, Kenosha, WI in the **Federal Register** (72 FR 13450). We received no letters commenting on the proposed rule. No public meeting requested, and none was held.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Comments and Changes

We received no public comments on the proposed rule. No changes have been made.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Kenosha Days of Discovery fireworks display. The fireworks display will occur between 8 p.m. and 10 p.m. on August 11, 2007.

The safety zone for the fireworks will encompass all waters of Lake Michigan and Kenosha Harbor within a 300 yard radius of position 42°35′14″ N, 087°48′29″ W (NAD 83).

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

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of Kenosha Harbor and Lake Michigan between 8 p.m. and 10 p.m. on August 11, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only two hours

for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that this Proposed Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–003 to read as follows:

§ 165.T09–003 Safety Zone, Kenosha Harbor, Kenosha, WI.

(a) *Location.* The following area is a temporary safety zone: All Waters of Lake Michigan and Kenosha Harbor within a 300-yard radius of position 42°-35′-14″ N, 087°-48′29″ W (NAD 83).

(b) *Effective period.* This regulation is effective from 8 p.m. to 10 p.m. on August 11, 2007.

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

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

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan means any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his behalf and is aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: May 16, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–10446 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–07–037]

RIN 1625–AA00

Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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

DATES: This rule is effective from 7:30 p.m. to 10 p.m. on July 5, 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 CGD05–07–037 and are available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 11, 2007, we published a notice of proposed rulemaking (NPRM) entitled ''Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD'' in the **Federal Register** (72 FR 18176). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

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

Discussion of Comments and Changes

The Coast Guard received no written correspondence in response to the NPRM. No public meeting was requested and none was held.

Discussion of Rule

On July 4, 2007, the Solomons Island Business Association will sponsor an Independence Day celebration fireworks display launched from two adjoining barges located on the Patuxent River near Solomons, in Calvert County, Maryland. The planned event includes an aerial fireworks display beginning at 9 p.m. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to falling embers or other debris associated with a fireworks display from a barge. This rule establishes a safety zone on the waters of the Patuxent River, within a radius of 400 yards around a fireworks barge, which will be located at position latitude 38° 19′ 03.0″ N, longitude 076° 26′ 07.6″ W. The Coast Guard anticipates a large recreational boating spectator fleet during this event. The rule will impact the movement of all vessels operating in a specified area of the Patuxent River. Interference with normal port operations is unlikely; however, if required, will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

Regulatory Evaluation

This 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.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities: the owners or operators of vessels intending to operate, remain or anchor within certain waters of the Patuxent River, within a radius of 400 yards around a fireworks barge located at position latitude 38° 19′ 03.0″ N, longitude 076° 26′ 07.6″ W, from 7:30 p.m. to 10 p.m. on July 4, 2007, and if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for two and one-half hours, commercial vessel traffic in this area is limited, vessels not constrained by their draft may proceed safely around the safety zone, and the Coast Guard will issue maritime advisories widely available to users of the river before the effective period.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes a safety zone.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–037 to read as follows:

§ 165.T05–037 Safety zone; Fireworks Display, Patuxent River, Calvert County, MD.

(a) *Location.* The following area is a safety zone: All waters of the Patuxent River near Solomons, in Calvert County, Maryland, surface to bottom, within a radius of 400 yards around a fireworks barge which will be located at position latitude 38° 19′ 03.0″ N, longitude 076° 26′ 07.6″ W. All coordinates reference Datum NAD 1983.

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

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

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

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

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

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

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

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

(d) *Enforcement period.* This section will be enforced from 7:30 p.m. to 10 p.m. on July 4, 2007, or if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007 instead.

Dated: May 15, 2007.

Brian D. Kelley,

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

[FR Doc. E7–10447 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 07–019]

RIN 1625–AA00

Safety Zones; Whales Transiting the San Francisco Bay and Delta Region, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary, moving safety zones on the navigable waters of the San Francisco Bay and Delta Region to contribute to the safety of the boating public where whales have been sighted swimming up river from the San Francisco Bay. These safety zones are established to ensure the safety of persons and vessels from hazards, injury, and damage associated with higher-than-normal levels of recreational boating traffic on the water as individuals attempt to view the whales. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or his designated representative.

DATES: This rule is effective from 12:01 a.m. May 17, 2007, until 11:59 p.m. June 5, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07–019 and are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard only recently learned of whales transiting the bay, river and delta region. Any delay in implementing this rule would have been impracticable and contrary to the public interest since immediate action was necessary to protect the public from hazards associated with the transiting whales.

For the same reasons listed in the previous paragraph, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the whales.

Background and Purpose

On May 14, 2007 the presence of possibly four and at least two whales swimming northerly in the Sacramento River was reported to the Coast Guard. The presence of these whales was confirmed by the Coast Guard and the National Oceanic and Atmospheric Administration. These safety zones are established to ensure the safety of persons and vessels from hazards, injury, and damage associated with higher-than-normal levels of recreational boating traffic on the water as individuals attempt to view the whales. The Coast Guard has established that there are two Humpback whales, and these safety zones will apply to each whale individually.

Discussion of Rule

The Coast Guard is establishing temporary, moving safety zones in the navigable waters of the San Francisco Bay and Delta Region wherever the whales are located. While the whales are in transit these safety zones will apply to the navigable waters around and under each whale within a radius of 500 yards. The effect of the temporary, moving safety zones will be to restrict general navigation in the vicinity of the whales while the whales transit the waters of the bay, and delta. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the safety zone. These safety zones

are needed to keep people and vessels a safe distance away from the whales to ensure the safety of people and vessels.

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.

Although this rule restricts access to the waters encompassed by the safety zones, the effect of this rule will not be significant because the local waterway users will be notified via public broadcast notice to mariners to ensure the safety zones will result in minimum impact. The entities most likely to be affected are pleasure craft engaged in recreational activities and commercial vessels.

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 is not expected to have a significant economic impact on a substantial number of entities, some of which may be small entities. This rule may affect owners and operators of pleasure craft, engaged in recreational activities and sightseeing, and commercial vessels. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of navigable waters to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via broadcast notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

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. Paragraph (34)(g) is applicable because this rule establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T11–192 to read as follows:

§ 165.T11–192 Safety Zones; Whales transiting San Francisco Bay and Delta Region, CA.

(a) *Location.* These temporary, moving safety zones are established for the waters of San Francisco Bay and Delta Region surrounding whales that are swimming through the area. During the whales' transit these safety zones will encompass the navigable waters around and under each whale within a radius of 500 yards.

(b) *Enforcement Period.* This section will be enforced from 12:01 a.m. May 17, 2007, to 11:59 p.m. June 5, 2007. If the whales leave the area before the scheduled end date, the Coast Guard will cease enforcement of these safety zones and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within these safety zones by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port, San Francisco, or his designated representative.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of these safety zones by local law enforcement as necessary.

Dated: May 17, 2007.

W. J. Uberti,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. E7–10503 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2007–0383; FRL–8318–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request to amend the Missouri State Implementation Plan (SIP) to include the base year inventory for the Missouri portion of the St. Louis 8-hour ozone national ambient air quality standard (NAAQS) nonattainment area and a demonstration of Missouri's emissions statement authority. The Missouri portion of the St. Louis nonattainment area consists of the City of St. Louis and Franklin, Jefferson, St. Charles and St. Louis Counties. The nonattainment area also includes four counties in Illinois. This amendment would fulfill Missouri's obligation, as a moderate nonattainment area, to submit a base year inventory for the 8-hour ozone NAAQS and to demonstrate adequate authority to address the emissions statement requirement as required under Section 182(a)(1) and Section 182(a)(3)(B) of the Clean Air Act, respectively.

DATES: This direct final rule will be effective July 30, 2007, without further notice, unless EPA receives adverse comment by July 2, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0383, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: rios.shelly@epa.gov.*

3. *Mail:* Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier.* Deliver your comments to Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2007–0383. 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 through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://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 *http://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 *http://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 *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Shelly Rios-LaLuz at (913) 551–7296, or by e-mail at *rios.shelly@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal approval process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What is being addressed in this document?

On June 15, 2006, we received a request from the Missouri Department of Natural Resources (MDNR) to amend its SIP to include the *2002 Base Year Emissions Inventory for the Missouri Portion of the St. Louis 8-Hour Ozone Nonattainment Area.* The Missouri portion of the St. Louis nonattainment area consists of the City of St. Louis and Franklin, Jefferson, St. Charles and St. Louis Counties. The St. Louis area was designated a moderate nonattainment area for the 8-hour ozone national ambient air quality standard (NAAQS) on April 15, 2004. This designation became effective on June 15, 2004. Moderate nonattainment areas must comply with requirements under the CAA Section 182(b), which states, in part, that moderate nonattainment areas shall make submissions that are required under subsection (a) relating to marginal areas. Section 182(a)(1) states that areas subject to Section 182(a) must submit a comprehensive, accurate, current inventory of actual emissions from all sources in accordance with EPA guidance. Such plans must be submitted within two years after the initial designation of June 15, 2004. In addition, Section 182(a)(3)(B) requires that the SIP include requirements that owner and operators of the sources emitting ozone precursors must submit annual statements of their emissions. This action addresses both of these requirements for the Missouri portion of the St. Louis 8-hour ozone nonattainment area.

EPA's *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations* (EPA–454/R–05–001, August 2005) was used as the basis for the development of the base year inventory submittal. MDNR chose 2002 as the base year for the St. Louis 8-hour ozone nonattainment area emissions inventory as recommended by the November 18, 2002, EPA memorandum *2002 Base Year Inventory SIP Planning: 8-Hour Ozone, $PM_{2.5}$ and Regional Haze Programs.* The inventory addresses actual annual and actual ozone season day (OSD) emissions of volatile organic compounds (VOCs), nitrogen oxides (NO_X) and carbon monoxide (CO) from stationary point and area sources, onroad and nonroad mobile sources, and biogenic sources within the Missouri portion of the St. Louis ozone nonattaiment area in accordance with the EPA's emission inventory guidance referenced above. The MDNR defined OSD emissions as those occurring during a typical weekday during the high ozone season, which takes place from June through August. This definition is consistent with the Consolidated Emissions Reporting Rule (CERR) where ozone daily emissions are defined as summer work weekday emissions. In addition, this period correlates to the 8-hour ozone NAAQS exceedences that occurred in 2002 and with the modeling episodes used in the attainment demonstration, which is currently under development by the state. The entire ozone season is from April–October.

Emissions for Missouri's portion of the St. Louis 8-hour ozone nonattainment area for the 2002 base year inventory are summarized in Table 1.

TABLE 1.—2002 BASE YEAR EMISSIONS SUMMARY BY SOURCE CATEGORY TYPE

Source type	VOC tons/yr	VOC tons/OSD	NO_X tons/yr	NO_X tons/OSD	CO tons/yr	CO tons/OSD
Point	10,868.4	29.0	44,018.3	126.8	9,207.0	26.4
Area	28,947.0	73.3	10,014.2	19.1	20,976.8	30.6
Offroad Mobile	13,881.3	45.3	19,329.0	60.2	188,365.9	642.6
Onroad Mobile	25,973.0	68.2	60,311.7	159.0	399,726.4	863.5
Anthropogenic Totals	79,669.7	215.7	133,673.2	365.1	618,276.1	1,563.2
Biogenics	56,878.50	385.8	886.5	3.5	4,813.60	28.7
Total (All)	136,548.20	601.5	134,559.70	368.60	623,089.70	1,591.90

Missouri's obligation under Section 182(a)(3)(B) of the CAA, which requires that all states with ozone nonattainment areas collect emission statements of the actual VOC and NO_X emissions from the owner or operators of each stationary source in the nonattainment area, was met by MDNR with its adoption of a revision to the Missouri SIP (rule 10 CSR 10–6.110), submitted to EPA on March 31, 1994, that demonstrated compliance with this requirement for the 1-hour ozone standard. Rule 10 CSR 10–6.110 was approved into the SIP on February 29, 1996 (61 FR 7714), and was effective on April 1, 1996. EPA's rationale for approving this rule can be found in the April 3, 1995, proposed rule (60 FR 16827). This rule requires sources that emit NO_X, VOC and CO equal or greater to 10 tons per year to submit emissions statements of their actual emissions to the state of Missouri. EPA has reviewed Missouri's rule and agrees that it is adequate for purposes of the emissions statement requirement for the 8-hour ozone NAAQS.

Have the requirements for approval of a SIP revision been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What action is EPA taking?

We are approving the request to amend Missouri's SIP to include the base year inventory for the Missouri portion of the St. Louis 8-hour ozone nonattainment area. We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (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 CAA. 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 CAA. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *July 30, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 14, 2007

John B. Askew,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is 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 AA—Missouri

■ 2. In § 52.1320(e) the table is amended by adding an entry in numerical order to read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(52) Submittal of the 2002 Base Year Inventory for the Missouri Portion of the St. Louis 8-hour ozone nonattaiment area and Emissions Statement SIP.	St. Louis	06/15/06	05/31/07 *[insert FR page number where the document begins]*.	

[FR Doc. E7–10231 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2007–0124; FRL–8320–3]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) for the purpose of revising the general emission rate for particulate matter.

DATES: This direct final rule will be effective July 30, 2007, without further notice, unless EPA receives adverse comment by July 2, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0124, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: Hamilton.heather@epa.gov.*

3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. Hand Delivery or Courier. Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2007–0124. 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 through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://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 *http://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 *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
Wha t is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal approval process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What does Federal approval of a state regulation mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What is being addressed in this document?

The Iowa Department of Natural Resources (IDNR) has amended Chapter 23, ''Emission Standards for Contaminants,'' specifically subrule 23.3(2), paragraph ''a'' to revise the general emission rate for particulate matter (PM). This revision applies to sources constructed, modified or reconstructed after July 21, 1999, and states that the emission of PM from any process shall not exceed an emission standard of 0.1 grain per dry standard cubic foot of exhaust gas.

For sources constructed before July 21, 1999, the revision further states that the emission of PM from any process shall not exceed the amount determined from Table I (the process weight rate limit), or amount specified in a permit if based on the revised emission standards, or established from standards provided in SIP-approved provisions for emission standards and specific processes (567–23.1) (455B) and 567–23.4 (455B), respectively). In support of the revision, IDNR provided an analysis to show that the revised concentration limit is generally equivalent to the former process weight limit. Iowa reviewed a number of units to determine which standard might result in greater emissions. IDNR found that most of the units could emit higher levels of PM emissions based on the process weight table than the concentration limit. Of the sources reviewed, where the concentration standard resulted in greater PM emissions, the emissions were under the *de minimis* levels established in the state's permitting rules. IDNR also noted that, since the revised standard only applied to sources constructed after July 1999, several sources, as a result of NAAQS review for permitting purposes, were required to meet PM limits that were more stringent than either the process weight or concentration standard.

EPA reviewed IDNR's technical justification for this SIP revision and found the justification to be acceptable. Therefore, EPA has determined that this revision will not constitute a relaxation of the SIP.

Have the requirements for approval of a SIP revision been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What action is EPA taking?

EPA is approving this SIP revision for the purpose of revising the general emission rate for PM. We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (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 CAA. 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 CAA. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 30, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 14, 2007.

John B. Askew,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is 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 Q—Iowa

■ 2. In § 52.820 the table in paragraph (c) is amended by revising the entry for 567–23.3 to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
IOWA DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION [567]				
*	*	*	*	*
Chapter 23—Emission Standards for Contaminants				
*	*	*	*	*
567–23.3	Specific Contaminants	12/15/04	5/31/2007 [insert FR page number where the document begins].	Subrule 23.3(3)''d'' is not SIP approved.
*	*	*	*	*

* * * * *

[FR Doc. E7–10490 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 209, 215, 225, 249, and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to update organization names and to add references to the DFARS companion resource, Procedures, Guidance, and Information.

EFFECTIVE DATE: May 31, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–7887.

SUPPLEMENTARY INFORMATION: This final rule amends DFARS text to update organization names and office symbols, and to add references to internal DoD procedures found in the DFARS companion resource, Procedures, Guidance, and Information (PGI).

List of Subjects in 48 CFR Parts 209, 215, 225, 249, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Parts 209, 215, 225, 249, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 209, 215, 225, 249, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 209—CONTRACTOR QUALIFICATIONS 209.104–70 [Amended]

■ 2. Section 209.104–70 is amended in paragraph (a), in the second sentence, by removing ''(PAIC)'' and adding in its place ''(CPIC)''.

PART 215—CONTRACTING BY NEGOTIATION

■ 3. Section 215.402 is added to read as follows:

215.402 Pricing policy.

Follow the procedures at PGI 215.402 when conducting cost or price analysis, particularly with regard to acquisitions for sole source commercial items.

■ 4. Section 215.403–1 is amended as follows:

■ a. By revising the section heading;

■ b. By adding paragraph (b);

■ c. In paragraph (c)(3), by designating the text after ''*Commercial items.*'' as paragraph (B);

■ d. By adding paragraph (c)(3)(A);

■ e. In newly designated paragraph (c)(3)(B), in the second sentence, by removing ''(c)(3)'' and adding in its place ''(c)(3)(B)''; and

■ f. In paragraph (c)(4)(A)*(3)*, by revising the second sentence to read as follows:

215.403–1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

(b) *Exceptions to cost or pricing data requirements.* Follow the procedures at PGI 215.403–1(b).

(c) * * *

(3) * * *

(A) Follow the procedures at PGI 215.403–1(c)(3)(A) for pricing commercial items.

* * * * *

(4) * * *

(A) * * *

(3) * * * Follow the procedures at PGI 215.403–1(c)(4)(A) for determining when an exceptional case waiver is appropriate, for approval of such waivers, for partial waivers, and for waivers applicable to unpriced supplies or services.

* * * * *

■ 5. Section 215.403–3 is added to read as follows:

215.403–3 Requiring information other than cost or pricing data.

Follow the procedures at PGI 215.403–3.

■ 6. Section 215.404–1 is amended as follows:

■ a. By redesignating paragraph (a) as paragraph (2);

■ b. By adding paragraph (1); and

■ c. In newly designated paragraph (2), in the introductory text, by removing ''*General.*''. The added text reads as follows:

215.404–1 Proposal analysis techniques.

(1) Follow the procedures at PGI 215.404–1 for proposal analysis.

* * * * *

PART 225—FOREIGN ACQUISITION

225.872–5 [Amended]

■ 7. Section 225.872–5 is amended in paragraph (a), in the last sentence, by removing ''Program Acquisition'' and adding in its place ''Contract Policy''.

225.872–6 [Amended]

■ 8. Section 225.872–6 is amended in paragraph (b) by removing ''Program Acquisition'' and adding in its place ''Contract Policy''.

PART 249—TERMINATION OF CONTRACTS

249.7000 [Amended]

■ 9. Section 249.7000 is amended in paragraph (a)(1) by removing ''Program Acquisition'' and adding in its place ''Contract Policy''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7004 [Amended]

■ 10. Section 252.225–7004 is amended as follows:

■ a. By revising the clause date to read ''(MAY 2007)'';

■ b. In paragraph (c)(5), by removing ''Program Acquisition'' and adding in its place ''Contract Policy''; and

■ c. In paragraph (c)(5), by removing ''(PAIC)'' and adding in its place ''(CPIC)''.

252.225–7006 [Amended]

■ 11. Section 252.225–7006 is amended as follows:

■ a. By revising the clause date to read ''(MAY 2007)'';

■ b. In paragraph (d), by removing ''Program Acquisition'' and adding in its place ''Contract Policy''; and

■ c. In paragraph (d), by removing ''(PAIC)'' and adding in its place ''(CPIC)''.

[FR Doc. E7–10336 Filed 5–30–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AV18

Endangered and Threatened Wildlife and Plants; Clarification of the Economic and Non-Economic Exclusions for the Final Designation of Critical Habitat for Four Vernal Pool Crustaceans and Eleven Vernal Pool Plants in California and Southern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Clarification of final critical habitat exclusions.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) provide a clarification of the economic and non-economic exclusions under section 4(b)(2) of the Endangered Species Act of 1973, as amended (Act), in support of the final designation of critical habitat for four vernal pool crustaceans and eleven vernal pool plants in California and Southern Oregon. We are taking this action in response to a court order. This clarification does not change the areas designated as critical habitat for the 15 vernal pool species.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Field Supervisor, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Sacramento, CA 95825 (telephone 916–414–6600; facsimile 916–414–6712). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2003, the Service published a final rule designating critical habitat for 4 vernal pool crustaceans and 11 vernal pool plant species in California and southern Oregon (68 FR 46683). In January 2004, Butte Environmental Council and several other organizations filed a complaint alleging that we: (1) Violated both the Act (16 U.S.C. 1531 *et seq.*), and the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) by excluding over 1 million acres from the final designation of critical habitat for the 15 vernal pool species; (2) violated mandatory notice-and-comment requirements under the Act and APA; and (3) engaged in an unlawful pattern, practice, and policy by failing to properly consider the economic impacts of designating critical habitat. On October 28, 2004, the court signed a Memorandum and Order in that case. The Memorandum and Order remanded the final designation to the Service in part. In particular, the court ordered us to: (1) Reconsider the exclusions from the final designation of critical habitat for the 15 vernal pool species, with the exception of those lands within the 5 California counties that were excluded based on potential economic impacts, and publish a new final determination as to those lands within 120 days; and (2) reconsider the exclusion of the 5 California counties based on potential economic impacts and publish a new final determination no later than July 31, 2005. On December 28, 2004, we published in the **Federal Register** a reopening of the comment period to solicit additional comments on the exclusions. On March 8, 2005, the Service published a confirmation of the non-economic exclusions (70 FR 11140) which addressed the first requirement of the October 2004 court-ordered remand. On August 11, 2005, the Service published a final rule (70 FR 46924) addressing the economic exclusions under section 4(b)(2) of the Act which addressed the second requirement of the October 2004 court-ordered remand.

On November 1, 2006, the U.S. District Court for the Eastern District of California issued a Memorandum and Order in *Home Builders Association of Northern California et al.* v. *U.S. Fish and Wildlife Service et al.* Case No. CIV S–05–0629 WBS–GGH. The court, in its opinion, noted that there were limited deficiencies in the existing rules designating critical habitat for 15 vernal pool plant and invertebrate species, variously listed as threatened or endangered under the Act. Specifically, the court found that the Service had not sufficiently articulated its rationale for excluding two census tracts containing public works projects from critical habitat, and that the Service failed to consider the recovery standard under the Act, pursuant to the Ninth Circuit Court of Appeal's decision in *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F.3d 1059 (9th Cir 2004) (hereinafter *Gifford Pinchot*). The court remanded the rules to the Service for further action consistent with the court's findings, as well as all applicable laws, and ordered the Service to submit new final critical habitat rules to the **Federal Register** by March 1, 2007. On January 24, 2007, the court clarified its November 2006 Memorandum and Order stating that the Service had adequately considered the recovery standard under the Act, pursuant to *Gifford Pinchot* for the non-economic exclusions. However, the court confirmed the remand of the economic exclusions for consideration of the recovery benefits of critical habitat pursuant to the *Gifford Pinchot* decision. The court granted an additional 120 days from January 24, 2007 for the Service to address the issues in both orders. This clarification of final critical habitat exclusions complies with the court's November 2006 and January 2007 Memorandum and Orders.

Since the publication of our August 11, 2005 final rule, we have received four petitions to revise critical habitat for the four vernal pool crustaceans and eleven vernal pool plants in California and Southern Oregon. Under the terms of the court ordered remand described above, we have reanalyzed the exclusions from critical habitat and separately evaluated the information contained within the petitions. We have concluded that the petitions do not contain substantial new information that would warrant revision of critical habitat.

Application of Section 4(a)(3) of the Act

There are multiple ways to provide management for species' habitat. Statutory and regulatory frameworks that exist at a local level can provide such protection and management. Finally, State, local, or private management plans, as well as management under Federal agencies' jurisdictions, can provide needed protections and management making designation of critical habitat unnecessary. When we consider a plan to determine its adequacy in protecting habitat, we consider whether the plan, as a whole, will provide the same level of protection that designation of critical habitat would provide. The plan needs to provide the equivalent protection of critical habitat. In making this determination, we examine whether the plan provides management, protection, or enhancement of the primary constituent elements (PCEs) that is at least equivalent to that provided by a critical habitat designation, and whether there is a reasonable expectation that the management, protection, or enhancement actions will continue into the foreseeable future. Each review is particular to the species and the plan, and some plans may be adequate for some species and inadequate for others.

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated

Natural Resource Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes an assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management, fish and wildlife habitat enhancement or modification, and wetland protection, enhancement, and restoration where necessary to support fish and wildlife and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. INRMPs developed by military installations located within the range of the critical habitat designation for the 15 vernal pool species were analyzed for exemption under the authority of section 4(a)(3) of the Act.

Approved INRMPs

Travis Air Force Base

Travis Air Force Base (AFB) has several vernal pool complexes that support the vernal pool fairy shrimp and *Lasthenia conjugens* and that also contain PCEs for *Neostapfia colusana,* Conservancy fairy shrimp, *Tuctoria mucronata,* and vernal pool tadpole shrimp. As a result of wetland surveys, Travis AFB had identified 235 vernal pools on approximately 100 acres (ac) (40 hectares (ha)) of the 1,100 ac (445 ha) that are not developed on the base. To date, only *Lasthenia conjugens* and the vernal fairy shrimp have been discovered on Travis AFB within these 100 ac (40 ha). Travis AFB has a Service-approved INRMP in place that provides a benefit for the vernal pool fairy shrimp and *Lasthenia conjugens* and that provides protection of the PCEs for *Neostapfia colusana,* Conservancy fairy shrimp, *Tuctoria mucronata,* and vernal pool tadpole shrimp. The INRMP was approved on April 16, 2003.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMP will provide benefits to the vernal pool fairy shrimp and *Lasthenia conjugens, Neostapfia colusana,* Conservancy fairy shrimp, *Tuctoria mucronata,* and vernal pool tadpole shrimp. Therefore, Travis AFB is exempt from inclusion in the designation of critical habitat for the 15 vernal pool species under section 4(a)(3) of the Act. This does not result in a change to the areas currently designated as critical habitat for the 15 vernal pool species.

Beale Air Force Base

Beale Air Force Base (AFB) has several substantial vernal pool complexes that support the vernal pool fairy shrimp and vernal pool tadpole shrimp, especially on the western side of the base. A final revised INRMP was approved by the Service on February 26, 2006, and provides a benefit for the vernal pool fairy shrimp and vernal pool tadpole shrimp. The completed INRMP provides for management and conservation of vernal pools within the base and establishes a Vernal Pool Conservation and Management Area to protect vernal pool complexes on the western side of the base. The Beale AFB is also currently preparing a Habitat Conservation Management Plan (HCMP) for the area. We will consult with Beale AFB under section 7 of the Act on the development and implementation of the HCMP and base comprehensive plan. The Beale AFB INRMP provides a benefit for the vernal pool fairy shrimp and vernal pool tadpole shrimp.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMP will provide benefits to the vernal pool fairy shrimp and vernal pool tadpole shrimp. Therefore, Beale AFB is exempt from inclusion in the designation of critical habitat for the 15 vernal pool species under section 4(a)(3) of the Act. This does not result in a change to the areas currently designated as critical habitat for the 15 vernal pool species.

Camp Roberts

Camp Roberts has substantial vernal pool complexes that support the vernal pool fairy shrimp. Camp Roberts completed their INRMP in 1999. We will consult with Camp Roberts under section 7 of the Act on the development and implementation of their revised INRMP. The INRMP that is currently in place provides for the vernal pool fairy shrimp and the features essential to its conservation and recovery occurring on Camp Roberts.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMP will provide benefits to the vernal pool fairy shrimp. Therefore, Camp Roberts is exempt from inclusion in the designation of critical habitat for the 15 vernal pool species under section 4(a)(3) of the Act. This does not result in a change to the areas currently designated as critical habitat for the 15 vernal pool species.

Fort Hunter Liggett

Fort Hunter Ligget has several substantial vernal pool complexes that support the vernal pool fairy shrimp. Fort Hunter Liggett completed its INRMP in 2004. The INRMP provides for management and conservation of vernal pool fairy shrimp and vernal pools, and establishes sensitive resource protection areas (SRPA). High quality vernal pools are found in SRPA 3, where current and proposed uses include vehicle travel on existing roads only, foot traffic, maintenance of roads and facilities, landings by helicopters, and habitat improvement projects. Ground disturbing activities are restricted. All other activities require coordination with the Environmental Office to ensure sensitive resources are not adversely affected. Fort Hunter Liggett's INRMP was approved by the Service in a programmatic biological opinion (1–8–02–F–29R) in March 2005.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMP will provide benefits to the vernal pool fairy shrimp on Fort Hunter Liggett. Therefore, Fort Hunter Liggett is exempt from inclusion in the designation of critical habitat for the 15 vernal pool species under section 4(a)(3) of the Act. This does not result in a change to the areas currently designated as critical habitat for the 15 vernal pool species.

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that critical habitat shall be designated, and

revised, on the basis of the best available scientific data after taking into consideration the economic impact, impact on national security, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Congressional record is clear that the Secretary is afforded broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we considered.

Benefits of Designating Critical Habitat

Educational Benefits of Critical Habitat

A benefit of including lands in critical habitat is that the designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for the 15 vernal pool species. In general, the educational benefit of a critical habitat designation always exists, although in some cases it may be redundant with other educational effects. For example, Habitat Conservation Plans (HCPs) have significant public input and may largely duplicate the educational benefit of a critical habitat designation. This benefit is closely related to a second educational benefit: that the designation of critical habitat would inform State agencies and local governments about areas that could be conserved under State laws or local ordinances.

However, we believe that there would be little additional educational benefit gained from the designation of critical habitat for the exclusions that we made in the final rules re-evaluating non-economic and economic exclusions (70 FR 11140, March 8, 2005; 70 FR 46924, August 11, 2005, respectively) because these areas were included in the proposed rule (67 FR 59884, September 24, 2002) as having habitat containing the features essential to the conservation of the species. Consequently, we believe that the educational benefits are already provided, even though these areas are not designated as critical habitat. Additionally, the purpose normally served by the designation, that of informing State agencies and local governments about areas which would benefit from protection and enhancement of habitat for the 15 vernal pool species, is already well established among State and local governments, and Federal agencies in those areas that we excluded from critical habitat in the final rules on the basis of other existing habitat management protections such as those on National Wildlife Refuges, State protected lands, or local government Habitat Conservation Plans.

The information provided in this section applies to all the discussions below concerning the benefits of inclusion and exclusion of critical habitat.

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without the cooperation of non-Federal landowners. More than 60 percent of the United States is privately owned (National Wilderness Institute 1995), and at least 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse *et al.* 2002). Stein *et al.* (1995) found that only about 12 percent of listed species were found almost exclusively on Federal lands (90 to 100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-Federal landowners (Wilcove and Chen 1998; Crouse *et al.* 2002; James 2002). Building partnerships and promoting voluntary cooperation of landowners is essential to understanding the status of species on non-Federal lands and is necessary to implement recovery actions such as reintroducing listed species, habitat restoration, and habitat protection.

Many non-Federal landowners derive satisfaction in contributing to endangered species recovery. The Service promotes these private-sector efforts through the Department of the Interior's Cooperative Conservation philosophy. This philosophy is evident in Service programs such as Habitat Conservation Plans (HCPs), Safe Harbor Agreements, Candidate Conservation Agreements, Candidate Conservation Agreements with Assurances, and conservation challenge cost-share. Many private landowners, however, are wary of the possible consequences of encouraging endangered species to utilize their property, and there is mounting evidence that some regulatory actions by the Federal government, while well-intentioned and required by law, can (under certain circumstances) have unintended negative consequences for the conservation of species on private lands (Wilcove *et al.* 1996; Bean 2002; Conner and Mathews 2002; James 2002; Koch 2002; Brook *et al.* 2003). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability, resulting in anti-conservation incentives because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003).

The Department of the Interior's Cooperative Conservation philosophy is the foundation for developing the tools of conservation. These tools include conservation grants, funding for Partners for Fish and Wildlife Program, the Coastal Program, and cooperative-conservation challenge cost-share grants. Our Private Stewardship Grant program and Landowner Incentive Program provide assistance to private landowners in their voluntary efforts to protect threatened, imperiled, and endangered species, including the development and implementation of HCPs.

Conservation agreements with non-Federal landowners (HCPs, contractual conservation agreements, easements, and stakeholder-negotiated State regulations) enhance species conservation by extending protections for species beyond those available through section 7 consultations. In the past decade, we have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species conservation on non-Federal land through such partnerships than we can

through coercive methods (61 FR 63854; December 2, 1996).

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7 of the Act, can sometimes be counterproductive to its intended purpose on non-Federal lands. According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). The magnitude of this negative outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, control of invasive species) are necessary for species conservation (Bean 2002). The Service believes that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

General Principles of Section 7 Consultations Used in the 4(b)(2) Balancing Process

The most direct, and potentially largest, regulatory benefit of critical habitat is that federally authorized, funded, or carried out activities require consultation under section 7 of the Act to ensure that they are not likely to destroy or adversely modify critical habitat. There are two limitations to this regulatory effect. First, it only applies where there is a Federal nexus—if there is no Federal nexus, designation itself does not restrict actions that destroy or adversely modify critical habitat. Second, it only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure those areas that contain the physical and biological features essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species are not eroded. Critical habitat designation alone, however, does not require specific steps toward recovery.

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts are likely to occur, then formal consultation would be initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory measures and terms and conditions to implement such measures are only specified when the proposed action would result in the incidental take of a listed animal or species. Reasonable and prudent alternatives to the proposed Federal action would only be suggested when the biological opinion results in a jeopardy or adverse modification conclusion.

We also note that for 30 years prior to the Ninth Circuit Court's decision in *Gifford Pinchot*, the Service combined the jeopardy standard with the standard for destruction or adverse modification of critical habitat when evaluating Federal actions that affect currently occupied critical habitat. However, in *Gifford Pinchot* the Court ruled that the two standards are distinct and that adverse modification evaluations require consideration of impacts on the recovery of species. Thus, under the *Gifford Pinchot* decision, critical habitat designations may provide greater benefits to the recovery of a species. However, we believe the conservation achieved through implementing HCPs or other habitat management plans is typically greater than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. Management plans commit resources to implement long-term management and protection to particular habitat for at least one and possibly other listed or sensitive species. Section 7 consultations only commit Federal agencies to prevent adverse modification to critical habitat caused by the particular project, and they are not committed to provide conservation or long-term benefits to areas not affected by the proposed project. Thus, any HCP or management plan that considers enhancement or recovery as the management standard will often provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision.

The information provided in this section applies to all the discussions below that discuss the benefits of inclusion and exclusion of critical habitat in that it provides the framework for the consultation process.

Benefits of Excluding Lands With HCPs or Other Approved Management Plans From Critical Habitat

The benefits of excluding lands with HCPs or other approved management plans from critical habitat designation include relieving landowners, communities, counties, and States of any additional regulatory burden that might be imposed by a critical habitat designation. Most HCPs and other conservation plans take many years to develop and, upon completion, are consistent with the recovery objectives for listed species to the extent known that are covered within the plan area. Many conservation plans also provide conservation benefits to unlisted sensitive species. Imposing an additional regulatory review as a result of the designation of critical habitat may undermine conservation efforts and partnerships designed to proactively protect species to ensure that listing under the Act will not be necessary. Designation of critical habitat within the boundaries of management plans that provide conservation measures for a species could be viewed as a disincentive to those entities currently developing these plans or contemplating them in the future, because one of the incentives for undertaking conservation is greater ease of permitting where listed species are affected. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning. In fact, designating critical habitat in areas covered by a pending HCP or conservation plan could result in the loss of some species' benefits if participants abandon the planning process, in part because of the strength of the perceived additional regulatory compliance that such designation would entail. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for them to be perceived as additional Federal regulatory burden sufficient to discourage continued participation in plans targeting listed species' conservation.

A related benefit of excluding lands within management plans from critical habitat designation is the unhindered,

continued ability to seek new partnerships with future plan participants including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. When critical habitat is designated on a managed area, it increases the likelihood that the managers of that area will perceive the designation to be an additional regulatory control over their management plan. If lands within approved management plan areas are designated as critical habitat, it would likely have a negative effect on our ability to establish new partnerships to develop and implement these plans, particularly plans that address landscape-level conservation of species and habitats. By preemptively excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

Furthermore, an HCP or Natural Community Conservation Plans (NCCP)/HCP application must itself be consulted upon. Such a consultation would review the effects of all activities covered by the HCP which might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), even without the critical habitat designation. In addition, Federal actions not covered by the HCP in areas occupied by listed species would still require consultation under section 7 of the Act and would be reviewed for possibly significant habitat modification in accordance with the definition of harm referenced above.

The information provided in this section applies to the discussion below regarding the benefits of inclusion and exclusion of critical habitat.

Exclusions Under Section 4(b)(2) of the Act

After consideration under section 4(b)(2) of the Act, the following areas of habitat have been excluded from critical habitat for the 15 vernal pool species: San Joaquin County Multi-Species Habitat Conservation Plan; Western Riverside Multiple Species Habitat Conservation Plan; Santa Rosa Plateau Ecological Reserve; Warm Springs Unit of the Don Edwards National Wildlife Refuge Complex; Kern, San Luis, and Sacramento National Wildlife Refuge Complexes; and the Coleman National Fish Hatchery Complex; Battle Creek, Big Sandy, Grizzly Island, Hill Slough, North Grasslands, and Oroville California Department of Fish and Game Wildlife Areas; State-owned lands within Allensworth, Boggs Lake, Butte Creek Canyon, Calhoun Cut, Carrizo Plains, Dales Lake, Fagan Marsh, Phoenix Field, San Joaquin River, Stone Corral, and Thomes Creek Ecological Reserves; Carrizo Plain National Monument; Mechoopda Tribal lands; and other areas where the designation of critical habitat has been determined to show a disproportionately high economic cost (See Economics section below). We believe that: (1) These lands' value for conservation has been addressed by existing protective actions or (2) they are appropriate for exclusion pursuant to the ''other relevant factor'' provisions of section 4(b)(2) of the Act. A detailed analysis of our exclusion of these lands under section 4(b)(2) of the Act is provided in the paragraphs that follow.

Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act

We consider a current plan to provide adequate management or protection if it meets three criteria: (1) The plan is complete and provides the same or better level of protection from adverse modification or destruction than that provided through a consultation under section 7 of the Act; (2) there is a reasonable expectation that the conservation management strategies and actions will be implemented based on past practices, written guidance, or regulations; and (3) the plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology. We believe that the San Joaquin County Multiple-Species Habitat Conservation Plan and the Western Riverside Multiple Species Habitat Conservation Plan fulfill these criteria, and we excluded non-federal lands covered by these plans that provide for the conservation of the 15 vernal pool species.

San Joaquin County Multiple-Species Habitat Conservation Plan (MSCP)

The San Joaquin County Multi-Species Habitat Conservation Plan (SJMSCP) encompasses all of San Joaquin County with the exception of Federally-owned lands and the following specific projects: Tracy Hills, the American River Water Resources Investigation Project, Folsom South Canal Connection of the East Bay Municipal Utility District Supplemental Water Supply Program, and the South County Surface Water Supply Project. The SJMSCP identifies the vernal pool fairy shrimp and the vernal pool tadpole shrimp as covered species. The SJMSCP also identifies and classifies areas where growth and development are expected to occur as build-out areas. A portion of one of these build-out areas overlaps with the San Joaquin Unit 18 for vernal pool fairy shrimp. The SJMSCP limits the amount of vernal pool loss to 15 wetted ac (6 ha) per year up to a maximum cap of 707 wetted ac (286 ha) and 5,894 ac (2,385 ha) of vernal pool grassland over the 50-year life of the plan. Additionally, the SJMSCP requires the preservation of 2 acres and creation of 1 acre of vernal pool habitat for every 1 acre that is impacted; resulting in a total of 3 acres of vernal pool preserves for each impacted acre. Preserves include both wetted surface area and upland grasslands surrounding vernal pools, thereby protecting both the vernal pools and their watersheds. The creation component of this mitigation emphasizes restoration of pre-existing vernal pools, wherever feasible. The SJMSCP has been finalized and includes participants from seven cities; the County of San Joaquin; the San Joaquin Council of Governments; various water districts within the County; the California Department of Transportation; East Bay Municipal Utility District; and the San Joaquin Area Flood Control District. The SJMSCP is a subregional plan under the State's Natural Community Conservation Planning (NCCP) program and was developed in cooperation with California Department of Fish and Game (CDFG). Within the county-wide planning area of the SJMSCP, approximately 71,837 ac (29,071 ha) of diverse habitats are proposed for conservation. The proposed conservation of 71,837 ac (29,071 ha) will compliment other existing natural and open space areas that are already conserved through other means (e.g., State Parks, USFWS, and County Park lands). For a complete discussion of the SJMSCP, please refer to our August 6, 2003 (68 FR 46684) and March 8, 2005 (70 FR 11140) final designations.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We have reviewed and evaluated the SJMSCP and have determined that the benefits of excluding the 10 ac (4 ha) of designated critical habitat for vernal pool fairy shrimp protected by the SJMSCP outweigh the benefits of maintaining these lands as critical habitat. As discussed above in detail and outlined below, the SJMSCP will provide for significant preservation and management of habitat for vernal pool fairy shrimp and other listed vernal pool species. Implementation of the SJMSCP will help reach the recovery goals for

each of the species. Additionally, by excluding critical habitat for the listed species, we are enhancing our relationship with these conservation partners and facilitating future conservation partnerships.

Furthermore, implementation of the SJMSCP will contribute to the recovery of vernal pool fairy shrimp and other listed vernal pool species under the Act in part by maintaining and managing the geomorphic and ecological processes of the landscape in large, well-placed blocks of habitat where the vernal pool fairy shrimp are found within the SJMSCP such that vernal pool fairy shrimp are likely to be conserved and therefore persist indefinitely. Since the PCEs required by the listed vernal pool fairy shrimp are similar, the conservation measures outlined in the SJMSCP will benefit both vernal pool fairy shrimp and other listed vernal pool species. These conservation measures include limiting the amount of vernal pool impact to 15 wetted ac (6 ha) per year up to a maximum cap of 707 wetted ac (286 ha) and 5,894 ac (2,385 ha) of vernal pool grassland over the 50-year life of the plan and requiring preservation of 2 acres and creation of 1 acre of vernal pool habitat for every 1 acre that is impacted, resulting in a total of 19,803 acres of vernal pool preserves. Preserves include both wetted surface area and upland grasslands surrounding vernal pools and protecting their watersheds. The creation component of this mitigation emphasizes restoration of pre-existing vernal pools, wherever feasible. The collection of preconstruction survey information is required to ensure that vernal pool compensation habitat reflects vernal pool types that are impacted. Measures to minimize take include conducting preconstruction surveys, excavating, leveling, or filling pools only after they have completely dried, and removing the topmost soil layer from pools prior to impacts for possible use as inoculum of future created vernal pool habitats. Protection and management of the PCEs within the SJMSCP occurs primarily through the formation of vernal pool preserves that protect habitat in perpetuity and maintain the physical and ecological characteristics of occupied habitat within the vernal pool preserves. Designation of critical habitat alone does not achieve recovery or require management of those lands identified in the critical habitat rule; however, management and habitat conservation associated with implementation of the SJMSCP will help provide for recovery of vernal pool species, even though we are not designating critical habitat in this area. We believe that the recovery benefits of excluding these lands and implementing the SJMSCP outweighs the recovery benefits of including these lands in critical habitat.

We also believe that the benefits of implementation of the SJMSCP outweigh the regulatory benefits of designation of critical habitat under section 7 of the Act. The Service has completed section 7 consultation on the SJMSCP (1–1–00–F–231) and should the lands covered by the SJMSCP be designated as critical habitat, consultations under section 7 would only commit Federal agencies to prevent adverse modification to the critical habitat and not require the conservation, long-term benefits, positive improvements, or enhancement of habitat described in the SJMSCP. Therefore, implementation of the SJMSCP that provides for the conservation of these species provides more benefit than would critical habitat designation of these lands for these species.

We have reviewed and evaluated the proposed exclusion of the portion of Unit 18 within the SJMSCP from the final designation of critical habitat, and have determined that the benefits of excluding the portion of Unit 18 within the SJMSCP outweigh the benefits of including these lands. The SJMSCP contains limits to conversions of vernal pool habitats and requires the collection of preconstruction survey information to ensure that vernal pool compensation reflects pool types that are impacted. Additionally, the SJMSCP contains a variety of measures to avoid, minimize, and mitigate for effects on listed vernal pool species. Mitigation measures to compensate for habitat conversion require 1:1 creation and 2:1 preservation for vernal pool habitats. Measures to minimize take include conducting preconstruction surveys and filling, excavating, or leveling vernal pools only after they have completely dried, and taking the topmost soil layer from pools prior to impacts for possible use in inoculation of future created vernal pool habitats. Of the 42,073 ac (17,026 ha) of suitable habitat for vernal pool crustaceans identified in the SJMSCP, only 707 wetted ac (286 ha) and 5,894 ac (2,385 ha) of vernal pool grassland are proposed for conversion. These specific conservation actions and management for listed vernal pool species and their PCEs as well as the general ecological benefits of large scale HCP planning exceed any conservation value provided as a result of any regulatory protections that may be afforded through a critical habitat designation.

The exclusion of these lands from critical habitat will also help preserve the partnerships that we have developed with the local jurisdictions and project proponents in the development of the SJMSCP. The benefits of excluding these lands from critical habitat outweigh the minimal benefits of including these lands as critical habitat, including the educational benefits of critical habitat through informing the public of areas important for the long-term conservation of this species, because these educational benefits can still be accomplished from materials provided on our Web site (*http://www.fws.gov/sacramento*). Further, many educational benefits of critical habitat designation have already been achieved through the overall designation and notice and public comment, and will continue to occur whether or not this particular unit were to be designated.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of a portion of Unit 18 from the final designation of critical habitat will result in the extinction of the vernal pool fairy shrimp. Overall, this area represents a small portion of the species range and the conservation measures as outlined in the SJMSCP greatly exceed those that may be afforded by the designation of critical habitat.

The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct. The exclusion of these lands from critical habitat leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

Western Riverside Multiple Species Habitat Conservation Plan (MSHCP)

The Western Riverside MSHCP has been finalized since the issuance of the August 6, 2003, rule. The Western Riverside MSHCP includes participants from 14 cities; the County of Riverside, including the County Flood Control and Water Conservation District; the County Waste Department; the California Department of Transportation; and the California Department of Parks and Recreation. The Western Riverside MSHCP is a subregional plan under the State's Natural Community Conservation Planning (NCCP) program and was developed in cooperation with California Department of Fish and Game (CDFG). Within the 1.26 million-ac (510,000-ha) planning area of the

MSHCP, approximately 153,000 ac (62,000 ha) of diverse habitats are proposed for conservation. The proposed conservation of 153,000 ac (62,000 ha) will compliment other existing natural and open space areas that are already conserved through other means (e.g., State Parks, USFS, and County Park lands). For a complete discussion of this HCP, please refer to our August 6, 2003 (68 FR 46684) and March 8, 2005 (70 FR 11140) final rules. The strategy implemented by the Western Riverside County MSHCP is to conserve at least 3,123 ac (1,264 ha) of habitat in three core areas representing the three known populations of vernal pool fairy shrimp in Riverside County. Conservation in this area will cover units 34 and 35 and include large blocks of habitat for the vernal pool fairy shrimp. In addition, other areas identified as important to the species will be conserved through the implementation of prescriptions set forth in the plan. The MSHCP requires that prior to construction activities, wetland habitats be identified and surveyed, and if significant impacts are proposed in occupied habitat, that 90 percent of the occupied portions of the site be conserved and therefore continue to provide for the long-term conservation of the vernal pool fairy shrimp.

The Skunk Hollow mitigation bank (the official title is the Barry Jones Wetland Mitigation Bank) and the Santa Rosa Plateau Preserve are within the planning area of the Western Riverside County MSHCP. Both of these areas are conserved as part of the Western Riverside County MSHCP. The management actions undertaken as part of the Western Riverside County MSHCP benefit the endangered Riverside fairy shrimp, threatened *Navarretia fossalis*, and the endangered *Orcuttia californica*, which are included as covered species under this regional HCP. The management actions will also provide equal conservation benefits for the vernal pool fairy shrimp.

The Skunk Hollow vernal pool basin (Unit 35) consists of a single, large vernal pool and associated watershed in western Riverside County. This unit and vernal pool basin are covered by the Western Riverside County MSHCP. Several federally listed species have been documented as occurring in the Skunk Hollow vernal pool basin. These include the vernal pool fairy shrimp (Western Riverside County MSHCP 2003, pp. C18–26), the Riverside fairy shrimp (Service 2001, p. 29389), *Navarretia fossalis*, and *Orcuttia californica* (Service 1998, p. 9). The vernal pool complex and associated watershed are also currently protected as part of a reserve established within an approved wetland mitigation bank in the Rancho Bella Vista HCP area, and as part of the conservation measures contained in the Assessment District 161 Subregional HCP (AD161 HCP), all of which have been incorporated into the Western Riverside County MSHCP. Although the Skunk Hollow does not identify the vernal pool fairy shrimp as a covered species, it does list the endangered Riverside fairy shrimp as a covered species and protects all the vernal pool habitat within the area, as well as the PCEs upon which the species relies. In this case, since species which rely on the same ecosystem are the target of the HCP and mitigation bank, we are able to conclude that the plan will provide the necessary management to protect the vernal pools. In addition, since the entire habitat area is addressed under the HCP, preserve, and mitigation bank areas, and not just habitat with a federal nexus (as is the case with critical habitat), the existing management already provides more protection than can be provided by a critical habitat designation.

The Western Riverside County MSHCP also encompasses lands within the Santa Rosa Plateau Ecological Reserve (SRPER) (Unit 34 for vernal pool fairy shrimp), an area that covers approximately 8,300 ac (3,360 ha) near the town of Murrieta, California. The SRPER is situated on a large mesa composed of basaltic and granitic substrates and contains one of the largest vernal pool complexes remaining in southern Riverside County. Several endemic vernal pool species are known to occur within the complex, including the vernal pool fairy shrimp, Riverside fairy shrimp, Santa Rosa fairy shrimp (*Linderiella santarosae*), *Orcuttia californica*, *Brodiaea filifolia* (Threadleaved brodiaea), and *Eryngium aristulatum* var. *parishii* (San Diego button-celery).

SRPER is owned and managed by CDFG. As a signatory to the Implementing Agreement for the Western Riverside County MSHCP, CDFG oversees the SRPER consistent with the conservation management scheme agreed to by all cooperating agencies and signatories. The CDFG has a broad authority to protect lands and conserve species (Fish and Game Code, sections 2700 et seq.)

Benefits of Exclusion Outweigh the Benefits of Inclusion

We have reviewed and evaluated the Western Riverside County MSHCP and have determined that the benefits of excluding the 10,214 ac (4,134 ha) of designated critical habitat for the vernal pool and Riverside fairy shrimp protected, directly and indirectly, by the Western Riverside County MSHCP outweigh the benefits of maintaining these lands as critical habitat. Although Riverside fairy shrimp is not addressed by the Western Riverside County MSHCP, it is anticipated that this species will benefit from the Western Riverside County MSHCP because this species occurs in areas also occupied by the listed vernal pool fairy shrimp, which is protected under the Western Riverside County MSHCP. Therefore, we believe that Riverside fairy shrimp will directly receive protection under the Western Riverside County MSHCP. We have determined that the management and protections afforded the vernal pool fairy shrimp in the Western Riverside County MSHCP are adequate for the long-term conservation of these species. The Western Riverside County MSHCP provides protection for the affected vernal pool complex and its associated watershed in perpetuity. Therefore it addresses the primary conservation needs of the species by protecting the ecosystem upon which it relies. As discussed above in detail and outlined below, the Western Riverside County MSHCP will provide for significant preservation and management of habitat for vernal pool fairy shrimp and Riverside fairy shrimp. Implementation of the Western Riverside County MSHCP will help reach the recovery goals for each of the species. Additionally, by excluding critical habitat on these lands for the listed species, we are enhancing our relationship with these conservation partners and facilitating future conservation partnerships by providing an incentive to develop and complete existing and future habitat conservation measures for federally listed species.

Furthermore, implementation of the Western Riverside County MSHCP will contribute to the recovery of vernal pool fairy shrimp and Riverside fairy shrimp under the Act in part by maintaining and managing the geomorphic and ecological processes of the landscape in large, well-placed blocks of habitat where these species are found within the Western Riverside County MSHCP such that the vernal pool fairy shrimp and Riverside fairy shrimp are likely to be conserved and therefore persist indefinitely. Since the PCEs required by the listed vernal pool fairy shrimp and Riverside fairy shrimp are similar, the conservation measures outlined in the Western Riverside County MSHCP will benefit these listed species. The strategy implemented by the Western Riverside

County MSHCP is to conserve at least 3,123 ac (1,264 ha) of habitat in three core areas (representing the three known populations in Riverside County) comprised of large blocks of habitat for the vernal pool fairy shrimp. Designation of critical habitat would not achieve recovery, by itself, or require management of these lands. We believe that the recovery benefits of excluding these lands and implementing the Western Riverside County MSHCP outweighs the recovery benefits of including these lands in critical habitat.

We also believe that the benefits of implementation of the Western Riverside County MSHCP outweigh the regulatory benefits of designation of critical habitat under section 7 of the Act. The Service has completed section 7 consultation on the Western Riverside County MSHCP and should the critical habitat remain in place, consultations under section 7 would only commit Federal agencies to prevent adverse modification to the critical habitat and not require the conservation, long-term benefits, positive improvements, or enhancement of habitat described in the Western Riverside County MSHCP. Therefore, implementation of the Western Riverside County MSHCP that provides for the conservation of these species provides more benefit than would the critical habitat designation of these lands for these species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of Units 34 and 35 from the final designation of critical habitat will result in the extinction of the vernal pool fairy shrimp. The strategy implemented by the Western Riverside County MSHCP is to conserve at least 3,123 ac (1,264 ha) of habitat in three core areas (representing the three known populations in Riverside County) comprised of large blocks of habitat for the vernal pool fairy shrimp. In addition, other areas identified as important to the species will be conserved through the implementation of prescriptions set forth in the plan. Wetland habitats will be identified and surveyed, and, if significant impacts are proposed and survey results are positive, 90 percent of the occupied portions of the property that provide for the long-term conservation value for the vernal pool fairy shrimp will be conserved.

The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct. The exclusion of critical habitat leaves these protections unchanged from those that would exist if the excluded areas were to be designated as critical habitat.

Relationship of Critical Habitat to National Wildlife Refuge and National Fish Hatchery Lands—Exclusions Under Section 4(b)(2) of the Act

We have determined that proposed critical habitat units on the Don Edwards, Kern, San Luis, and Sacramento National Wildlife Refuge Complexes, and the Coleman National Fish Hatchery Complex, warrant exclusion pursuant to section 4(b)(2) of the Act because the benefits of excluding these lands from final critical habitat outweigh the benefits of their inclusion. For a complete discussion of these National Wildlife Refuges and National Fish Hatchery Lands, please refer to our August 6, 2003 (68 FR 46684) and March 8, 2005 (70 FR 11140) final designations. National Wildlife Refuge and National Fish Hatchery lands are already managed for the conservation of wildlife, and the purpose of these lands is already to preserve natural resource values. Below we will discuss each of the Refuges and Fish Hatcheries separately, but we are providing one balancing discussion for all Service-owned and -managed lands.

Don Edwards National Wildlife Refuge Complex

The Warm Spring Unit of the Don Edwards National Wildlife Refuge Complex has developed a draft Habitat Management Plan (HMP) for vernal pool species and grassland ecosystem conservation. Approximately 275 ac (111 ha) of vernal pool grasslands occur on the Warm Springs Unit. An intra-Service section 7 consultation was conducted on the HMP, and a concurrence memorandum was completed in June 2003 (Service file 1–1–03–I–1852), stating that the management activities would not likely adversely affect the vernal pool tadpole shrimp or *Lasthenia conjugens* (Contra Costa goldfields). The HMP is expected to be finalized in 2008, with the completion of the Comprehensive Conservation Plan (CCP). The HMP establishes various habitat goals and objectives including habitat enhancement, restoration, and monitoring for vernal pool species. The HMP also establishes guidelines for management activities such as grazing, land disturbance activities, pesticide application, exotic plant removal, and water management for the refuge. These and other activities, when carried out as identified in the HMP, will assist in enhancing and conserving the vernal pool species and the vernal pool grassland ecosystem on the refuge.

Kern National Wildlife Refuge Complex

The Kern National Wildlife Refuge Complex (Kern and Pixley National Wildlife Refuges) has an approved and signed Comprehensive Conservation Plan (CCP) (Service 2004a, pp 109) that provides for the protection and management of all trust resources, including federally listed species and sensitive natural habitats. One goal of the CCP is to protect, preserve, and restore alkali sink, alkali playa, Northern Claypan vernal pool, and grassland habitats within the refuge for the conservation of vernal pool species and grassland ecosystems. To reach this goal, the approved CCP provides for implementing grazing, prescribed burning, monitoring, and status survey programs. The CCP for the Kern National Wildlife Refuge Complex has been completed, and the associated biological opinion concluded that its implementation would not jeopardize the continued existence of these species (Service 2004, p. 4). In addition, the Kern National Wildlife Refuge Complex will protect vernal pool and other wetland resources through willing seller acquisition, conservation easements, and partnerships to acquire additional natural lands within the approved refuge boundary to provide connectivity between units (Service 2004a, p 14).

San Luis National Wildlife Refuge Complex

Several federally listed species have been documented on the San Luis National Wildlife Refuge Complex (San Luis NWR), including the vernal pool fairy shrimp, vernal pool tadpole shrimp, Conservancy fairy shrimp, *Chamaesyce hooveri* (Hoover's spurge), *Neostapfia colusana* (Colusa grass), and the California tiger salamander (*Ambystoma californiense*). The San Luis NWR has developed and implemented several management activities to provide for the conservation of these species, including: (1) Managing and providing habitat for endangered or sensitive species; (2) maintaining and enhancing the overall biodiversity associated with the existing mix of vegetative communities; and (3) providing an area for compatible, management-oriented research and education/interpretation and recreational programs which may include observation, photography, or hunting. Building upon the concepts originally outlined in the San Joaquin Basin Action Plan, a detailed habitat restoration plan has been developed specifically for the West Bear Creek

Unit. Fish and Wildlife Service staff at San Luis NWR directed all aspects of the project planning, design, and implementation. The habitat restoration plan included construction of wetlands including vernal pools, and planting and restoration of native grassland and woody riparian habitat. In addition, the United States Bureau of Reclamation, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game, under a cooperative agreement called the San Joaquin Basin Action Plan, are in the process of jointly developing a habitat acquisition and wetland enhancement project, including vernal pools, on approximately 23,500 ac (9,510 ha) of lands within the Northern San Joaquin River Basin.

Sacramento National Wildlife Refuge Complex

The Sacramento National Wildlife Refuge Complex (Sacramento NWR) develops an annual Habitat Management Plan for each Refuge within the complex which details actions to be implemented for the year. The plan outlines various resource management and enhancement activities such as noxious weed removal, mowing, and water management for each unit within each refuge and identifies sensitive species concerns if they are present. The refuge also undertakes annual surveying and monitoring of the vernal pool resources on each refuge in the complex. A formal biological opinion was completed for refuge activities in April 1999 (Service file 1–1–98–F–13), stating that the management activities would not jeopardize the Conservancy fairy shrimp, vernal pool fairy shrimp, vernal pool tadpole shrimp, *Orcuttia pilosa* (hairy Orcutt grass), *Tuctoria greenei* (Greene's tuctoria), and *Chamaesyce hooveri.* The Sacramento NWR is also in the process of developing a Comprehensive Conservation Plan (CCP). The CCP is expected to be drafted by August 2007 and finalized by August 2008.

Coleman National Fish Hatchery

The Coleman National Fish Hatchery (Coleman NFH) owns approximately 165 ac (67 ha) of land along Battle Creek in Shasta and Tehama Counties, California. Approximately 13 ac (5 ha) of grassland habitat were proposed as critical habitat for the vernal pool tadpole shrimp and *Orcuttia tenuis* (slender Orcutt grass). No vernal pools or vernal pool species occur on the hatchery lands. However, the grasslands may provide detritus and assist in maintaining the hydrologic functioning of the vernal pools and providing connectivity for the vernal pool resources in the area. The focus of the Coleman NFH is to provide spawning and rearing facilities for threatened or endangered salmonid species. The Coleman NFH currently does not have any plans to disturb or alter the areas identified as critical habitat in the proposed rule (67 FR 59884, September 24, 2002). Any activities that may impact these areas would be subject to intra-Service section 7 consultation.

Benefits of Exclusion of Refuge and Hatchery Lands Outweigh the Benefits of Inclusion

We have reviewed and evaluated the National Wildlife Refuge and National Fish Hatchery complexes named above and have determined that the benefits of excluding the 42,914 ac (17,367 ha) of proposed critical habitat for the vernal pool species protected, directly and indirectly, within these areas outweigh the benefits of designating these lands as critical habitat. Critical habitat designation provides little gain in the way of increased recognition for special habitat values on lands that are expressly managed to protect and enhance those values. All of the refuges described above have or are developing comprehensive resource management plans that will provide for protection and management of all public trust resources, including federally listed species and sensitive natural habitats. These plans, and many of the management actions undertaken to implement them, must also complete consultation under section 7 of the Act. Therefore, any federal activity that is consistent with the terms of the CCP would be very unlikely to have an adverse effect on the primary constituent elements such that the habitat could no longer serve the intended conservation role for the species.

We believe that the benefit of including these lands in critical habitat is low because they already are publicly owned and managed to protect and enhance unique and important natural resource values. In addition, by designating these lands the Service would be required to conduct internal consultations on activities to determine whether they adversely modify critical habitat. This extra and unnecessary regulatory process would require that funding be diverted from the management of the Refuge and Hatchery resources. The Service believes that the allocation of taxpayer funds to actions that more directly benefit species on the ground provides a more robust conservation benefit to the listed species. Exclusion of these lands will not increase the likelihood that management activities would be proposed that would appreciably diminish the value of the habitat for conservation of the species. Further, such exclusion will not result in the extinction of the vernal pool species. We, therefore, conclude that the benefits of excluding National Wildlife Refuge and National Fish Hatchery lands from the final critical habitat designation outweigh the benefits of including them.

The lands essential for the conservation of the vernal pool species on refuge and hatchery lands are publicly owned and managed to conserve fish, wildlife, and plants and their habitats, including the 15 species that are the subject of this rule. In addition, environmental education and interpretation are among the priority public uses of the refuge system. As a result, we conclude that the benefits of excluding National Wildlife Refuge and National Hatchery lands from the final critical habitat designation outweigh the benefits of including them. Exclusion of these lands will not increase the likelihood that management activities would be proposed which would appreciably diminish the value of the habitat for conservation of these species. Designation of critical habitat on refuge or hatchery lands would provide redundant, but no additional, conservation value for the vernal pool species in terms of management emphasis, public recognition, or education than currently exists.

Exclusion Will Not Result in Extinction of the Species

We conclude that the benefits of excluding National Wildlife Refuge and National Fish Hatchery lands from the final critical habitat designation outweigh the benefits of including them. Such exclusion will not result in the extinction of the vernal pool species because these publicly owned lands are managed for the protection of natural resources. The vernal pool and grassland resources on the Don Edwards, Kern, San Luis, and Sacramento National Wildlife Refuge Complexes and Coleman National Fish Hatchery are being managed to protect, conserve, and restore all vernal pool species and their habitat through CCPs, specific management plans, or section 7 terms and conditions. The refuges have developed or are developing long-term ecosystem approaches for managing the vernal pools and vernal pool species occurring on the refuges. By implementing numerous management strategies and monitoring for conserving the vernal pool resources on the refuges and hatchery lands, the long-term

conservation of the vernal pool species is insured.

The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct. The exclusion of these lands from critical habitat leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

In accordance with section 4(b)(2) of the Act, we have excluded lands within the Don Edwards, Kern, San Luis, and Sacramento National Wildlife Refuge Complexes and Coleman National Fish Hatchery Complex from final critical habitat. The exclusion includes portions of Conservancy fairy shrimp Units 2 and 7; longhorn fairy shrimp Unit 2; vernal pool fairy shrimp Units 10, 23, 27a and 27b; vernal pool tadpole shrimp Units 2, 5, 14, and 16; Colusa grass Unit 7b; Contra Costa goldfields Unit 8; Greene's tuctoria Unit 5; hairy Orcutt grass Unit 3; Hoover's spurge Units 3 and 6; and slender Orcutt grass Unit 3.

Relationship of Critical Habitat to State-Managed Ecological Reserves and Wildlife Areas—Exclusions Under Section 4(b)(2) of the Act

We contacted local California Department of Fish and Game (CDFG) resource managers and staff at the various locations to verify that no significant changes to vernal pool habitat and the management of this habitat have occurred since the August 6, 2003, final rule (68 FR 46684). These areas continue to be managed for the benefit of common and special-status species and their habitats.

We proposed as critical habitat, but excluded from the final designation, the CDFG-owned lands within the Battle Creek, Big Sandy, Grizzly Island, Hill Slough, North Grasslands, and Oroville Wildlife Areas and State-owned lands within Allensworth, Boggs Lake, Butte Creek Canyon, Calhoun Cut, Carrizo Plains, Dales Lake, Fagan Marsh, Phoenix Field, San Joaquin River, Stone Corral, and Thomes Creek Ecological Reserves. These State-managed ecological reserves and wildlife areas were excluded from critical habitat designation in our August 6, 2003 (68 FR 46684) and March 8, 2005 (70 FR 11140), final designations.

The State of California establishes ecological reserves to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools (Fish and Game Code, section 1580). They are to be preserved in a natural condition, or are to be provided some level of protection as determined by the Fish and Game Commission, for the benefit of the general public to observe native flora and fauna and for scientific study or research (Fish and Game Code, section 1584). Wildlife areas are for the purposes of propagating, feeding, and protecting birds, mammals, and fish (Fish and Game Code, section 1525); however, they too provide habitat and are managed for the benefit of listed and sensitive species (CDFG 2003).

Take of species except as authorized by State Fish and Game Code is prohibited on both State ecological reserves and wildlife areas (Fish and Game Code, section 1530 and section 1583). While public uses are permitted on most wildlife areas and ecological reserves, such uses are only allowed at times and in areas where listed and sensitive species are not adversely affected (CDFG 2003). The management objectives for these State lands include: ''to specifically manage for targeted listed and sensitive species to provide protection that is equivalent to that provided by designation of critical habitat; to provide a net benefit to the species through protection and management of the land; to ensure adequate information, resources, and funds are available to properly manage the habitat; and to establish conservation objectives, adaptive management, monitoring and reporting processes to assure an effective management program, and monitoring and reporting processes to assure an effective management program (CDFG 2003).''

Additional Benefits of Exclusion

The consultation requirement associated with critical habitat on the CDFG's ecological reserves and wildlife areas require the use of resources to ensure regulatory compliance that could otherwise be used for on-the-ground management of the targeted listed or sensitive species. In the past, the State of California (State) has expressed a concern that the designation of these lands and associated regulatory requirements may cause delays that could be expected to reduce their ability to respond to vernal pool management issues that arise on the ecological reserves and wildlife areas. Therefore, the benefits of exclusion include relieving additional regulatory burden that might be imposed by the designation of critical habitat for vernal pool species, which could divert resources from substantive resource protection to procedural regulatory efforts.

Benefits of Exclusion Outweigh the Benefits of Inclusion

We have reviewed and evaluated the State-managed ecological reserves and wildlife areas named above and have determined that the benefits of excluding the 12,373 ac (5,007 ha) of proposed critical habitat for the vernal pool species protected, directly and indirectly, within these areas outweigh the benefits of designating these lands as critical habitat. We believe that the benefits of inclusion for these lands are low as these lands already are publicly owned and managed by a wildlife agency to protect and enhance unique and important natural resource values. Therefore, designation of critical habitat would add little value. The management objects for State ecological reserves already include specifically managing for targeted listed and sensitive species; therefore, the benefit from additional consultation is likely also to be minimal. As discussed above, the State's management activities will provide for significant preservation and management of habitat for the vernal pool species. Implementation of the management activities will help reach the recovery goals for each of the species. Additionally, by excluding these lands from critical habitat for the listed species, we are enhancing our relationship with the State and facilitating future conservation partnerships.

Furthermore, the State's management activities will contribute to the recovery of the vernal pool species under the Act in part by maintaining and managing the geomorphic and ecological processes of the landscape in large, well-placed blocks of habitat where the species are found such that the species are likely to be conserved and therefore persist indefinitely. Designation of critical habitat would not achieve recovery or require management of these lands. We believe that the recovery benefits of excluding these lands and implementing the management actions outlined by the State outweigh the recovery benefits of including these lands in critical habitat.

We also believe that the benefits of State management outweigh the regulatory benefits of designation of critical habitat under section 7 of the Act. Should the critical habitat remain in place, consultations under section 7 would only commit Federal agencies to prevent adverse modification to the critical habitat and not require the conservation, long-term benefits, positive improvements, or enhancement of habitat. The benefits of exclusion are higher, as Federal actions on these lands

may result in the need for consultation, most often on activities that would enhance wildlife conservation. These consultations would result in additional administrative burdens without significant accompanying conservation benefits. For plant species, section 7 consultations are limited to jeopardy and/or adverse modification analysis; biological opinions do not include an incidental take statement, and there are no reasonable and prudent measures issued to minimize the effect of any predicted incidental take. Any measures taken to minimize effects to the plant species or their habitat are completely voluntary. Therefore, the State management actions within the ecological reserves and wildlife areas that provide for the conservation of these species provide more benefit than would a critical habitat designation on these lands for these species.

The benefits of excluding these lands from critical habitat outweigh the benefits of designating these lands as critical habitat, including the educational benefits of critical habitat through informing the public of areas important for the long-term conservation of this species, because these educational benefits can still be accomplished from materials provided on our Web site (*http://www.fws.gov/sacramento*). Many educational benefits of critical habitat designation have been achieved through the designation process, and notice and public comment, and these benefits will continue to occur whether or not these lands are designated as critical habitat.

In summary, we believe that the benefits of inclusion for these lands are minimal as these lands already are publicly owned and managed to protect and enhance unique and important natural resource values. Therefore, any federal activity that is consistent with the State code for activity on both State ecological reserves and wildlife areas would be very unlikely to have an effect on the primary constituent elements such that the habitat could no longer serve the intended conservation role for the species.

Exclusion Will Not Result in Extinction of the Species

We conclude that the benefits of excluding CDFG ecological reserves and wildlife areas from the final critical habitat designation outweigh the benefits of including them. Such exclusion will not result in the extinction of listed vernal pool species because ecological reserves are set aside to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types. The Reserves are to be preserved in a natural condition, or are to be provided some level of protection as determined by the Fish and Game Commission, for the benefit of the general public to observe native flora and fauna and for scientific study or research (Fish and Game Code, section 1584). Further, we do not believe that such exclusion will increase the likelihood that activities would be proposed that would appreciably diminish the value of the habitat for the conservation of these species.

The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct. The exclusion of these lands from critical habitat leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

In accordance with section 4(b)(2) of the Act, we have excluded California Department of Fish and Game-owned lands within the Battle Creek, Big Sandy, Grizzly Island, Hill Slough, North Grasslands, and Oroville Wildlife Areas, and State-owned lands within Allensworth, Boggs Lake, Butte Creek Canyon, Calhoun Cut, Carrizo Plains, Dales Lake, Fagan Marsh, Phoenix Field, San Joaquin River, Stone Corral, and Thomes Creek Ecological Reserves. The exclusion includes portions of Conservancy fairy shrimp Units 3 and 7; longhorn fairy shrimp Units 2 and 3; vernal pool fairy shrimp Units 6, 16, 17, 23, 26a, 26c, 27b, 29b, and 30; vernal pool tadpole shrimp Units 11, 16, 18a and 18c; Colusa grass Unit 2; Contra Costa goldfields Unit 4; Hoover's spurge Unit 7a and 7d; Sacramento Orcutt grass Unit 1; San Joaquin Valley Orcutt grass Unit 6a; slender Orcutt grass Units 3 and 5a; Solano grass Unit 2; and fleshy owl's-clover Unit 4.

Relationship of Critical Habitat to Tribal Lands—Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires us to gather information regarding the designation of critical habitat and its effects from all relevant sources, including Indian Pueblos and Tribes. In accordance with the Secretarial Order 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); and Executive Order 13175, we recognize the need to consult with federally recognized Indian Tribes on a Government-to-Government basis. The Secretarial Order 3206 ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act (1997)'' provides that critical habitat should not be designated in an area that may impact Tribal trust resources unless it is determined to be essential to conserve a listed species.

Mechoopda Trust Lands

The Mechoopda trust lands includes 644 ac (261 ha) of lands in Unit 4. These lands contain suitable habitat for the vernal pool tadpole shrimp. The Mechoopda Environmental Protection Agency is responsible for the management of the Tribe's natural resources, and recognizes the importance of implementing conservation measures that will contribute to the conservation of federally listed species on their lands. The Mechoopda tribe continues to work with the Service on developing and implementing conservation measures to benefit federally listed species on their lands.

Additional Benefits of Exclusion

In accordance with Secretarial Order 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments;'' and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2), we believe that fish, wildlife, and other natural resources on tribal lands are better managed under tribal authorities, policies, and programs than through Federal regulation wherever possible and practicable. Based on this philosophy, we believe that, in many cases, designation of Tribal lands as critical habitat provides very little additional benefit to threatened and endangered species. Conversely, such designation is often viewed by tribes as an unwanted intrusion into tribal self governance, thus compromising the government-to-government relationship essential to achieving our mutual goals of managing for healthy ecosystems upon which the viability of threatened and endangered species populations depend.

In our critical habitat designations, we use the provision outlined in section 4(b)(2) of the Act to evaluate those specific areas that contain the features essential to the conservation of the

species to determine which areas to propose and subsequently finalize (i.e., designate) as critical habitat. On the basis of our evaluation, discussed below, we excluded certain lands from the final designation of critical habitat for the 15 vernal pool species.

Benefits of Exclusion Outweigh the Benefits of Inclusion

The benefits of including Mechoopda trust lands in critical habitat for vernal pool species is low. The total amount of tribal lands is small relative to the remainder of the critical habitat designation and relative to those lands that are currently set aside in conservation banks. Minor educational benefits may arise from the designation of critical habitat on Tribal lands. However, the Mechoopda Environmental Protection Agency, which is responsible for the management of the Tribe's natural resources, recognizes the importance of implementing conservation measures that will contribute to the conservation of federally listed species on their lands and have developed a management plan for sensitive species and habitats (Mechoopda Indian Tribe Environmental Management Plan, March 2003 (EMP)). Any conservation measures implemented by the Mechoopda Environmental Protection Agency will contribute to the recovery of the vernal pool species under the Act. Designation of critical habitat would not achieve recovery or require management of these lands.

The benefits of including the Tribe's land are limited to minor educational benefits. The benefits of excluding these lands from critical habitat outweigh the benefits of designating these lands as critical habitat, including the educational benefits of critical habitat through informing the public of areas important for the long-term conservation of this species, because these educational benefits can still be accomplished from materials provided on our Web site (*http://www.fws.gov/sacramento*). Many educational benefits of critical habitat designation have been achieved through the designation process and notice and public comment, and these benefits will continue to occur whether or not these lands are designated as critical habitat.

Because one or more of the species occupies all these areas, consultation on federal actions will occur regardless of whether critical habitat is designated. While some additional benefit might accrue from adverse modification analyses, we expect them to be small. Tribal areas represent a small proportion of vernal pool habitat within the designation, and the Tribe has demonstrated the willingness and ability to manage these lands in a manner that preserves the lands' conservation benefits as outlined in their EMP. The benefits of excluding these areas from critical habitat are more significant, and include our policy of maintaining a government-to-government relationship with tribes, as well as encouraging the continued development and implementation of special management measures. The Mechoopda Environmental Protection Agency recognizes the importance of implementing conservation measures that will contribute to the conservation of federally listed species on their lands. The Mechoopda Tribe has already demonstrated their willingness to work with us to address the habitat needs of listed species that may occur on Mechoopda lands. The exclusion of critical habitat for the Mechoopda trust lands is consistent with our published policies on Native American natural resource management by allowing the Mechoopda Tribe to manage their own natural resources.

Exclusion Will Not Result in Extinction of the Species

Based on the above considerations, and consistent with the direction provided in section 4(b)(2) of the Act, we have determined that the benefits of excluding 644 ac (261 ha) of Mechoopda Tribal land as critical habitat outweigh the benefits of including it as critical habitat for the vernal pool tadpole shrimp (Unit 4) and will not result in the extinction of the vernal pool tadpole shrimp. Given the importance of our government-to-government relationship with Tribes, the benefit of maintaining our commitment to the Executive Order by excluding these lands outweighs the benefit of including them in critical habitat. For a complete discussion of these Tribal lands, please refer to our August 6, 2003 (68 FR 46684) and March 8, 2005 (70 FR 11140), final designations.

Relationship of Critical Habitat to Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act

Carrizo Plain National Monument

The Carrizo Plain National Monument (Monument) is cooperatively managed by the Bureau of Land Management (BLM), the Service, and the California Department of Fish and Game and provides habitat for other listed species in addition to the vernal pool fairy shrimp and the longhorn fairy shrimp. In 2005, we reviewed a draft of the Carrizo Plain Resource Management Plan (CPRMP). At that time, the cooperatively developed CPRMP was based on a conservation standard of long-term conservation and recovery for ''listed plants and animals and the natural communities on which they depend.'' Specific measures and goals outlined in the 2005 draft CPRMP include: (1) Improve and sustain populations of federally and State listed plant and animal species to meet conservation and recovery goals; (2) Implement agency-approved protocols for listed species surveys, take avoidance, and conservation measures; (3) Survey for sensitive resources prior to conducting any activities that have the potential to affect natural communities and species of management concern; (4) Avoid areas supporting the longhorn fairy shrimp and vernal pool fairy shrimp to the greatest extent possible; (5) Require personnel familiar with the sensitive resource to be present during activities which may affect sensitive resources to ensure that activities are conducted in such a way as to avoid and minimize disruption and disturbance of these resources; and (6) Compensate for unavoidable adverse effects (BLM 2005). However, since the publication of our August 2005 final rule (70 FR 46924), the BLM stopped the planning process for the CPRMP to gather additional information and provide for public input for the CPRMP. The BLM expects to restart the CPRMP environmental impact statement planning process in the spring of 2007, and complete all environmental documents within 2 years. We have no reason to believe that the BLM will significantly change the direction of management of listed species, including vernal pool species based on past management of the area and we fully expect the BLM to initiate section 7 consultation on the CPRMP once a draft plan has been developed. In the interim, BLM is actively managing public lands within the Monument in accordance with existing biological opinions and for the recovery of federally listed species (S. Larsen, BLM 2005, p. 1) and is currently managing the area in accordance with the existing Caliente Resource Management Plan (RMP) which includes Carrizo Plain (Saslaw 2007, p. 1). The BLM-managed land overlaps portions of vernal pool fairy shrimp Unit 30 (16,033 ac (6,488 ha)) and longhorn fairy shrimp Unit 3 (16,033 ac (6,488 ha)) in San Luis Obispo County.

Benefits of Inclusion

The designation of critical habitat would require consultation with us for any action undertaken, authorized, or

funded by a Federal agency that may affect the species or its designated critical habitat. However, there would be minimal benefit from designating critical habitat for vernal pool fairy shrimp and longhorn fairy shrimp within the Carrizo Plain National Monument lands because these lands are public trust lands managed for the conservation of natural resources. Critical habitat designation would provide little gain in the way of increased recognition for special habitat values on lands that are expressly managed to protect and enhance those values.

The primary benefit of including an area within a critical habitat designation is the protection provided by section 7(a)(2) of the Act that directs Federal agencies to ensure that their actions do not result in the destruction or adverse modification of critical habitat. The designation of critical habitat may provide a different level of protection under section 7(a)(2) for vernal pool fairy shrimp and longhorn fairy shrimp that is separate from the obligation of a Federal agency to ensure that their actions are not likely to jeopardize the continued existence of a listed species. Under the *Gifford Pinchot* decision, critical habitat designations may provide greater benefits to the recovery of a species than was previously believed. However, the protection provided is still a limitation on the adverse effects that may occur to designated critical habitat, as opposed to a requirement to affirmatively provide a conservation benefit on those lands.

Another potential benefit of critical habitat would be to signal the importance of these lands to Federal agencies, scientific organizations, State and local governments, and the public to encourage conservation efforts to benefit vernal pool species such as vernal pool fairy shrimp and longhorn fairy shrimp and their habitats. However, the importance of protecting the biological resource values of these lands, including vernal pool fairy shrimp and longhorn fairy shrimp, has already been clearly and effectively communicated to Federal, State, and local agencies and other interested organizations and members of the public through previous and future management planning processes.

Benefits of Exclusion

Excluding lands managed by the BLM within the Carrizo Plain National Monument will preserve the partnerships that we have developed with the BLM and CDFG in the cooperative management of the Monument. The Service issued a biological opinion in 1996 (Service file 1–1–95–F–149) that covers routine activities on the monument. BLM has demonstrated its proactive commitment to conservation in the development of a previous draft of the CPRMP. Excluding 16,033 ac (6,488 ha) of BLM lands from critical habitat designation recognizes BLM's commitment to conservation and recovery of vernal pool species and other species, and provides additional incentive to BLM to maintain and strengthen the partnerships in the management of the Monument. BLM's commitment to species' conservation in development of a new CPRMP, as outlined in the biological opinion, and subsequent letters and correspondence (Service file 1–1–95–F–149; S. Larsen, BLM 2005, p. 1; Saslaw 2007, p. 1), is in line with the agency's requirement to utilize its programs for the furtherance of the purposes of the Act under section 7(a), and may exceed the conservation value provided by a critical habitat designation alone because BLM is able to focus limited Federal resources toward proactive conservation of sensitive species.

Benefits of Exclusion Outweigh the Benefits of Inclusion

The educational benefits of critical habitat, including informing the public of areas that are essential for the long-term survival and conservation of the species, are still accomplished through the BLM's land use planning processes and associated outreach and public participation. Based on our evaluation of previous draft management plans for this area, we expect the new, revised CPRMP to be consistent with previous management strategies and expect that the longhorn fairy shrimp and the vernal pool fairy shrimp will be managed on BLM administered lands under a conservation standard of long-term conservation and recovery for ''listed plants and animals and the natural communities on which they depend.'' We would likely lose the benefits that accrue from the partnerships that have been developed, while realizing no additional conservation benefit, should critical habitat be designated for the two listed crustacean species in the area covered by the CPRMP. For these reasons, we believe that the benefits of exclusion of 16,033 ac (6,488 ha) of land exceed the benefits of designating critical habitat on lands administered by BLM within the Carrizo Plain National Monument within Unit 3 for longhorn fairy shrimp and Unit 30 for vernal pool fairy shrimp.

Exclusion Will Not Result in Extinction of the Species

We believe that exclusion of these lands, which are considered to be occupied habitat, will not result in extinction of vernal pool fairy shrimp or longhorn fairy shrimp. Any actions that might adversely affect these two crustaceans would have a Federal nexus and must undergo a consultation with the Service under the requirements of section 7 of the Act. The jeopardy standard of section 7, and routine implementation of habitat conservation through the section 7 process as discussed in the economic analysis, provide assurance that the species will not go extinct. In addition, the two crustacean species are protected from take under section 9 of the Act. The exclusion of these lands from critical habitat leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

Additionally, critical habitat is designated for both crustacean species in other areas that are protected from adverse modification by Federal actions using the conservation standard based on the Ninth Circuit decision in *Gifford Pinchot*. Vernal pool fairy shrimp are also protected on lands such as conservation banks covered by perpetual conservation easements and managed specifically for listed vernal pool species and their habitat.

The jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct. The exclusion of these lands from critical habitat leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

Economics

Section 4(b)(2) of the Act allows the Secretary to exclude areas from critical habitat for economic reasons if he determines that the benefits of such exclusion exceed the benefits of designating the area as critical habitat, unless the exclusion will result in the extinction of the species concerned. Congress has provided this discretionary authority to the Secretary with respect to critical habitat. Although economic and other impacts may not be considered when listing a species, Congress has expressly required this consideration when designating critical habitat.

In making the following exclusions, we have in general considered that all of the costs and other impacts predicted

in the economic analysis may not be avoided by excluding the areas, because all of the areas in question are currently occupied by the listed species and there will still be requirements for consultation under section 7 of the Act, or for permits under section 10 (henceforth ''consultation''), for any take of these species, and other protections for the species exist elsewhere in the Act and under State and local laws and regulations. In conducting economic analyses, we are guided by the Tenth Circuit Court of Appeal's ruling in the *New Mexico Cattle Growers Association* case (248 F.3d at 1285), which directed us to consider all impacts, ''regardless of whether those impacts are attributable co-extensively to other causes.'' As explained in the analysis, due to possible overlapping regulatory schemes and other reasons, some elements of the analysis may also overstate some costs.

Conversely, the Ninth Circuit has recently ruled (*Gifford Pinchot*, 378 F.3d at 1071) that the Service's regulations defining ''adverse modification'' of critical habitat are invalid because they define adverse modification as affecting both survival and recovery of a species. The Court directed us to consider that determinations of adverse modification should be focused on impacts to recovery. While we have not yet proposed a new definition for public review and comment, compliance with the Court's direction may result in additional costs associated with the designation of critical habitat (depending upon the outcome of the rulemaking). In light of the uncertainty concerning the regulatory definition of adverse modification, our current methodological approach to conducting economic analyses of our critical habitat designations is to consider all conservation-related costs. This approach would include costs related to sections 4, 7, 9, and 10 of the Act, and should encompass costs that would be considered and evaluated in light of the *Gifford Pinchot* ruling.

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned.

Following the publication of the proposed critical habitat designation, we conducted an economic analysis to estimate the potential economic effects of the designation. The draft analysis was made available for public review on June 30, 2005 (70 FR 37739). We accepted comments on the draft analysis until July 20, 2005.

The primary purpose of the economic analysis is to estimate the potential economic impacts associated with the designation of critical habitat for the 15 vernal pool species. This information is intended to assist the Secretary in making decisions about whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. This economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry. This information can be used by the Secretary to assess whether the effects of the designation might unduly burden a particular group or economic sector.

This analysis focuses on the direct and indirect costs of the rule. However, economic impacts to land use activities can exist in the absence of critical habitat. These impacts may result from, for example, local zoning laws, State and natural resource laws, and enforceable management plans and best management practices applied by other State and Federal agencies. Economic impacts that result from these types of protections are not included in the analysis as they are considered to be part of the regulatory and policy baseline.

The draft economic analysis published on June 30, 2005 (70 FR 37739) reanalyzed the economic effects to the 35 counties in which we had proposed designating critical habitat. The counties most impacted by the critical habitat designation to the new housing industry include Sacramento ($374 million), Butte ($145 million), Placer ($120 million), Solano ($87 million), Fresno ($43 million), Stanislaus ($33 million), Madera ($32 million), Monterey ($29 million), Shasta ($20 million), Tehama ($19 million), and Merced ($16 million). Further, economic impacts are unevenly distributed within these counties. The analysis was conducted at the census tract level, resulting in a high degree of spatial precision compared to our previous economic analysis (March 14, 2003; 68 FR 12336), in which economic effects could not be deconstructed below the county level.

In the base scenario where critical habitat reduces the amount of new housing, designation of vernal pool critical habitat results in nearly $1.0 billion in losses to consumers and producers between 2005 and 2025. In the event that on-site avoidance can be accomplished through density increases alone, welfare losses from vernal pool critical habitat would be $820 million over the same time period.

Sacramento County is expected to experience the largest economic impacts from critical habitat—nearly $375 million in consumer and producer surplus losses. As shown in the map of impacts in Sacramento County, these impacts are concentrated in census tracts close to downtown Sacramento. Economic impacts generally decline in those census tracts that are progressively farther from the city center. This pattern is generally repeated in other counties.

A copy of the final economic analysis with supporting documents may be obtained by contacting U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Application of Section 4(b)(2) of the Act—Economic Exclusion to 23 Census Tracts and Two Public Sector Projects

We have considered designating, but have excluded from critical habitat for 3 of the 4 listed vernal pool crustaceans and 11 listed vernal pool plants, the 23 census tracts and counties listed in Table 1. No critical habitat for longhorn fairy shrimp is contained within any of the 23 census tracts. Therefore, land occupied by 14 of the 15 listed vernal species is affected by exclusion of critical habitat for economic reasons.

TABLE 1.—EXCLUDED CENSUS TRACTS, ASSOCIATED SPECIES, AND COSTS

Census tract	Species	County	Welfare impact in draft EA ($)	Adjustments after public comment and review	Total adjusted cost
06067008701	Vernal pool tadpole shrimp, Vernal pool fairy shrimp, *Orcuttia viscida, Orcuttia tenuis*.	Sacramento	304,224,384	−70,565,264	233,659,120
06007000900	Vernal pool tadpole shrimp, Vernal pool fairy shrimp, *Limnanthes floccosa* ssp. *californica*.	Butte	88,974,848	0	88,974,848
06061021301	Vernal pool fairy shrimp	Placer	74,583,712	0	74,583,712
06061021303	Vernal pool fairy shrimp	Placer	37,184,144	0	37,184,144
06095252309	*Lasthenia conjugens*, Vernal pool tadpole shrimp, Vernal pool fairy shrimp.	Solano	28,771,992	0	28,771,992
06095253500	Vernal pool tadpole shrimp, Vernal pool fairy shrimp, Conservancy fairy shrimp, *Tuctoria mucronata, Lasthenia conjugens, Neostapfia colusana*.	Solano	27,448,252	0	27,448,252
06053014103	*Lasthenia conjugens*	Monterey	26,854,790	0	26,854,790
06067009315	*Orcuttia viscida, Orcuttia tenuis*, Vernal pool tadpole shrimp, Vernal pool fairy shrimp.	Sacramento	24,236,570	0	24,236,570
06019005515	Vernal pool fairy shrimp, *Orcuttia inaequalis, Castilleja campestris* ssp. *succulenta*.	Fresno	22,912,350	0	22,912,350
06067009200	Vernal pool tadpole shrimp, Vernal pool fairy shrimp, *Orcuttia viscida, Orcuttia tenuis*.	Sacramento	21,195,492	0	21,195,492
06099000102	Vernal pool fairy shrimp, *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Tuctoria greenei, Neostapfia colusana*.	Stanislaus	16,931,104	0	16,931,104
06007000101	Vernal pool fairy shrimp	Butte	16,364,906	0	16,364,906
06067008600	Vernal pool tadpole shrimp, Vernal pool fairy shrimp, *Orcuttia tenuis*.	Sacramento	16,254,806	0	16,254,806
06019005511	*Orcuttia inaequalis, Castilleja campestris* ssp. *succulenta*, Vernal pool fairy shrimp.	Fresno	13,001,144	0	13,001,144
06039000105	Vernal pool tadpole shrimp, Vernal pool fairy shrimp, *Tuctoria greenei, Orcuttia pilosa, Castilleja campestris* ssp. *succulenta, Orcuttia inaequalis*.	Madera	12,117,652	0	12,117,652
06007001400	Conservancy fairy shrimp, Vernal pool tadpole shrimp, Vernal pool fairy shrimp, *Limnanthes floccosa* ssp. *californica, Tuctoria greenei, Orcuttia pilosa, Chamaesyce hooveri, Orcuttia tenuis*.	Butte	11,405,310	+2,436,015	13,841,325
06089010802	*Orcuttia tenuis*	Shasta	10,167,456	0	10,167,456
06099000101	Vernal pool fairy shrimp, *Neostapfia colusana*.	Stanislaus	9,925,463	0	9,925,463
06007002200	Vernal pool tadpole shrimp, *Limnanthes floccosa* ssp. *californica, Tuctoria greenei, Orcuttia pilosa, Chamaesyce hooveri*.	Butte	8,825,428	0	8,825,428
06095252502	*Lasthenia conjugens*	Solano	7,993,725	0	7,993,725
06047001901	*Vernal pool fairy shrimp, Conservancy fairy shrimp, Vernal pool tadpole shrimp, Orcuttia inaequalis, Neostapfia colusana, Castilleja campestris* ssp. *succulenta*.	Merced	5,759,870	+10,000,000	15,759,870
06103000900	*Vernal pool fairy shrimp, Conservancy fairy shrimp, Vernal pool tadpole shrimp, Tuctoria greenei, Orcuttia pilosa, Orcuttia tenuis, Chamaesyce hooveri*.	Tehama	5,359,834	+6,093,965	11,453,799
06061020902	*Vernal pool fairy shrimp*	Placer	2,462,844	***	74,583,712
Total			779,373,528		740,920,792

*** Placer Vineyards straddles two census tracts; impacts for tracts 06061020902 and 06061021301 were aggregated in the final analysis. See the Summary of Comments and Recommendations section in the August 11, 2005 final rule (70 FR 46924).

The notice of availability of the revised draft economic analysis (June 30, 2005, 70 FR 37739) solicited public comment on the potential exclusion of the 20 highest cost areas. As we finalized the economic analysis, we identified high costs associated with the critical habitat designation to public projects in Merced and Tehama County. These public projects were the development of the University of California (UC) Merced campus and the

widening of Highway 99 in Tehama County. The final economic analysis indicates additional costs in census tracts in which these projects were located were $10,000,000 for UC Merced and $6,093,965 for Highway 99. On the basis of the significance of these costs, we determined these two census tracts should be excluded from critical habitat. In addition, information received during the comment period indicated that the Placer Vineyards Specific Plan was located in two census tracts in Placer County, one of which was identified in the draft economic analysis as being in one of the 20 highest cost areas, and one of which was not. As a result, impacts for the two affected census tracts were aggregated in the final analysis, which significantly increased the costs in the second census tract (See the Summary of Comments and Recommendations section in the August 11, 2005 (70 FR 46924) final rule). For this reason, it too, was excluded from the final critical habitat designation.

Benefits of Inclusion of the 23 Excluded Census Tracts and 2 Public Sector Projects

The areas excluded are currently occupied by one or more of the 3 listed vernal pool crustaceans or the 11 listed vernal pool plants, as shown in Table 1. If these areas were designated as critical habitat, any actions with a Federal nexus which may adversely affect the critical habitat would require a consultation with us. All but three of the census tracts described in Table 1 are currently occupied by one or more of the crustacean species, and, therefore, consultation for activities which may adversely affect the species, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), would be required, even without the critical habitat designation. The requirement to conduct such consultation would occur regardless of whether the authorization for incidental take occurs under either section 7 or section 10 of the Act. For the three units occupied only by one or more of the plant species, there is a requirement for a jeopardy analysis to ensure Federal actions are not likely to jeopardize the continued existence of the species. In addition to the consultation requirements outlined above, if these areas were included in the critical habitat designation, the primary constituent elements in these areas would be protected from destruction or adverse modification by federal actions using a conservation standard based on the Ninth Circuit's decision in *Gifford Pinchot.* This requirement would be in addition to the requirement that proposed Federal actions avoid likely jeopardy to the species' continued existence. The additional conservation standard would assure that lands designated as critical habitat would provide for species recovery. In other words, there may be discretionary Federal actions that would not trigger the jeopardy standard, but would adversely modify critical habitat. As a result there may be additional avoidance of impacts to areas with critical habitat through the conservation standard of adverse modification, instead of just the jeopardy standard through section 7.

We determined in the economic analysis that designation of critical habitat could result in approximately $800,000,000 in costs in these 23 census tracts, the majority of which are directly related to residential development impacts. We believe that the potential decrease in residential housing development that could be caused by the designation of critical habitat for the 15 vernal pool species would minimize impacts to and potentially provide some protection to the species, the vernal pool complexes where they reside, and the physical and biological features essential to their conservation (i.e., their primary constituent elements). Thus, this decrease in residential housing development would directly translate into a conservation benefit to the species if these areas were included in the critical habitat designation.

Another possible benefit of a critical habitat designation is education of landowners and the public regarding the potential conservation value of these areas. This may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation values for certain species. However, we believe that this education benefit has largely been achieved, or is being achieved in equal measure, by other means. There have been three previous iterations of the critical habitat process for these lands, which has included both public comment periods and litigation, all with accompanying publicity. In addition, we published the *Draft Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon* in October 2004, and the final recovery plan on June 14, 2006. The draft recovery plan identified areas that are important for the conservation of each of the 15 listed vernal pool species. Upon publication of the draft recovery plan, we held numerous workshops throughout the State to educate the public about recovery strategies for the species covered by the plan, including all 15 of the listed vernal pool species that are the subject of this document. In addition to identifying specific areas that are important for the conservation of the 15 listed vernal pool species, the final recovery plan details the actions necessary to achieve self-sustaining populations of each listed species in the wild so that they will no longer require protection under the Act. The designation of critical habitat and the identification of vernal pool recovery core areas were based on similar methodologies and criteria of using vernal pool regions as classified by Keeler-Wolf *et al.* (1998, pp. 1–159) as a base for determining the extent of the respective recovery or critical habitat areas. The vernal pool regions encompass the range and variation of vernal pool habitats which are the focus of the recovery plan for habitat protection and conservation efforts. As a result of using similar methodologies and criteria the critical habitat boundaries make up a large part of the ''Zone 1'' core areas identified in the final recovery plan and are an intricate part of recovery for the 15 vernal pool species. The final recovery plan provides information geared to the general public, landowners, and agencies about areas that are important for the conservation of each listed vernal pool species and what actions they can implement to further the conservation of vernal pool species within their own jurisdiction and capabilities. The final recovery plan also contains provisions for ongoing public outreach and education as part of the recovery process.

As implied above, another possible benefit of a critical habitat designation is its contribution to the recovery of threatened and endangered species. Critical habitat is defined in section 3 of the Act as-(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. In identifying those lands, the Service must consider the recovery needs of the species and its habitat, which, if managed, could provide for the survival and recovery of the species. Furthermore, once critical habitat has been designated, Federal agencies must consult with the Service under section 7 of the Act to ensure that their actions will not either adversely modify

designated critical habitat or jeopardize the continued existence of the species. As noted previously, in the Ninth Circuit's *Gifford Pinchot* decision, the Court ruled that the jeopardy and adverse modification standards are distinct, and that adverse modification evaluations require consideration of impacts to the recovery of species. Thus, through the section 7(a)(2) consultation process, critical habitat designations provide recovery benefits to species by ensuring that Federal actions will not destroy or adversely modify designated critical habitat. Critical habitat also assists in focusing recovery efforts outlined in recovery plans by identifying, developing and potentially protecting core areas which will assist in conserving the species.

In summary, we believe that inclusion of the 23 census tracts and 2 public sector projects as critical habitat would provide some additional Federal regulatory benefits for the species. However, that benefit is limited to some degree by the fact that the habitat is occupied by the species, and therefore Federal agencies must in any case consult with the Service over any action which may affect one or more of the 14 listed vernal pool species within those 23 census tracts. The additional educational benefits which might arise from critical habitat designation are largely accomplished through the multiple opportunities for public notice and comments that accompanied the development of the 15 vernal pool species critical habitat regulations, publicity over the prior litigation, and public outreach associated with the development of the draft recovery plan, and ultimately the implementation of the final recovery plan, for vernal pool species.

Benefits of Exclusion of the 23 Excluded Census Tracts and 2 Public Sector Projects

The economic analysis conducted estimates that the costs associated with designating these 23 census tracts would be approximately $740,920,792. These costs would be associated with each of the 14 listed vernal pool species in amounts shown in Table 1. By excluding these census tracts, some or all of these costs will be avoided. The exclusion of two important public-sector projects, UC Merced in Merced County and the widening of Highway 99 in Tehama County, will avoid additional costs associated with critical habitat designation.

Benefits of Exclusion Outweigh the Benefits of Inclusion of the 23 Census Tracts and 2 Public Sector Projects

We believe that the benefits of excluding these lands from the designation of critical habitat-avoiding the potential economic and human costs, both in dollars and jobs, predicted in the economic analysis-exceed the educational, regulatory, and recovery benefits which could result from including those lands in the designation of critical habitat.

We have evaluated and considered the potential economic costs on the residential development industry and two public sector projects relative to the potential benefit for the 14 vernal pool species and their primary constituent elements that could result from the designation of critical habitat. We believe that the potential economic impact of up to approximately $800 million on the development industry, $10 million on the University of California, and over $6 million on the Federal and State transportation projects in Tehama County significantly outweighs the potential conservation and protective benefits for the species and their primary constituent elements derived from residential development, highways and transportation networks, and higher educational facilities not being constructed as a result of this designation.

We also believe that excluding these lands, and thus helping landowners avoid any additional costs that would result from compliance with the designation, will contribute to a more positive climate for Habitat Conservation Plans and other active conservation measures, which provide greater conservation benefits than would result from designation of critical habitat—even in the post-*Gifford Pinchot* environment—because designation requires only that there be no adverse modification resulting from actions with a Federal nexus. We therefore find that the benefits of excluding these areas from the designation of critical habitat outweigh the benefits of including them in the designation.

The recently completed (December, 15, 2005) recovery planning process provided equivalent educational value to the public, State and local governments, scientific organizations, and Federal agencies in providing information about habitat that is essential to the conservation of the 3 vernal pool crustacean species and 11 vernal pool plants. The process also facilitated conservation efforts through heightened public awareness of the plight of the listed species. The final recovery plan contains explicit objectives for ongoing public education, outreach, and collaboration at local, State, and Federal levels, and between the private and public sectors, in recovering the four listed crustaceans. Furthermore, as previously described, we believe the educational benefits of designation were largely achieved through the multiple public notification processes associated with the previous and current iterations of the vernal pool species critical habitat rule.

The identification of those lands that may need management and have features that are essential for the conservation of the species and that can provide for the recovery of a species is expected to contribute to the process of recovering the species. The process of proposing and finalizing a critical habitat rule provides the Service with the opportunity to determine lands essential for conservation as well as identify the primary constituent elements or features essential for conservation on those lands. The designation process includes peer review and public comment on the identified features and lands. This process is valuable to landowners and managers in developing conservation management plans for identified lands, as well as any other occupied habitat or suitable habitat that may not have been included in the Service's determination of essential habitat. This process is also valuable to Federal action agencies as they go though processes to fund, authorize, or carry out actions on any lands identified within a critical habitat rule, even if those lands end up being excluded from the final rule, particularly in areas containing occupied habitat where Federal agencies will initiate consultation under section 7 of the Act.

For example, the UC Merced campus is covered by a programmatic biological opinion issued by the Service in 2002 (1–1–02–F–0107). The biological opinion requires the development and implementation of a conservation strategy that incorporates conservation measures for listed species including vernal pool plants and crustaceans. The conservation strategy is still under development and will be included in the Environmental Impact Statement (EIS) currently under preparation by the U.S. Army Corps of Engineers. The conservation strategy includes monitoring and adaptive management measures on some of the preserved lands that is consistent with the implementation of the recently published Recovery Plan for Vernal Pool Ecosystems of California and Southern

Oregon. In addition, approximately 25,964 ac (10,507 ha) of vernal pool habitat has been conserved through conservation easements or fee title that contribute to recovery of the species. Therefore, we believe that the exclusion of the UC Merced campus will facilitate long-term conservation and recovery of listed vernal pool species.

The economic costs associated with the designation of critical habitat for the 15 vernal pool species on a public transportation project in Tehama County totals over $6 million. The project includes widening approximately 5 mi (8 km) of State Route 99 which is a major transportation corridor for the State. The projected project start date for the project is in 2012, and is currently in the planning and development stage. The surplus cost identified for this census tract totals nearly $5.4 million. The cost including public projects for Tehama County in census tract 0610300900 totals over $11.4 million which places this census tract within the top 23 highest cost tracts. Tehama County as a whole has been identified as being in the top ten counties with the highest county-level welfare impacts and has the second highest percentage (1.9 percent) of economic impacts of all counties when looking at the relationship between the amount of surplus lost and the aggregate household income (CRA International 2005, p. 74). When evaluating the costs for Tehama County as a whole (transportation costs (over $6 million), census tract costs (over $5.4 million), and surplus loss ($18.8 million) compared to aggregate income (over $1 billion)), we have determined that exclusion of critical habitat for the Conservancy fairy shrimp, vernal pool fairy shrimp, vernal pool tadpole shrimp, hairy Orcutt grass, Hoover's spurge, Greene's tuctoria, and slender Orcutt grass based on these factors is appropriate.

We believe that exclusion of these units within the 23 census tracts and 2 public sector projects will not hinder recovery of the 15 vernal pool species. Other vernal pool complexes, including areas identified as critical habitat, in the general area of those excluded are occupied by one or more of the listed vernal pool species, contain functioning PCEs, and would therefore contribute to recovery. Sufficient habitat would be conserved in other areas designated as critical habitat and in other areas, such as perpetual conservation easements, to contribute to the recovery of the 15 listed vernal pool species.

Exclusion Will Not Result in Extinction of the Species

Conservancy Fairy Shrimp, Vernal Pool Fairy Shrimp, Vernal Pool Tadpole Shrimp

We believe that exclusion of these lands, which we consider to be occupied habitat, will not result in the extinction of Conservancy fairy shrimp, vernal pool fairy shrimp, or vernal pool tadpole shrimp. Actions which might adversely affect these three crustaceans are expected to have a Federal nexus, and would thus undergo a section 7 consultation with the Service. The jeopardy standard of section 7 of the Act, and routine implementation of habitat preservation through the section 7 process, as discussed in the economic analysis, provide assurance that the species will not go extinct. In addition, the three crustaceans are protected from take under section 9 of the Act. The exclusion leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

Critical habitat is designated for all three crustacean species in other areas that are accorded the protection from adverse modification by Federal actions using the conservation standard based on the Ninth Circuit decision in *Gifford Pinchot.* Additionally, all species occur on lands protected and managed either explicitly for the species, or indirectly through more general objectives to protect natural values; this provides protection from extinction and contributes to the recovery of the listed vernal pool crustaceans. For example, Conservancy fairy shrimp is protected on lands, such as conservation banks and other natural areas protected by perpetual conservation easements and managed specifically for the species (e.g., Viera-Sandy Mush, Vina Plains). The species also occurs on lands managed to protect and enhance wetland values under the Wetlands Reserve Program of the Natural Resources Conservation Service of the U.S. Department of Agriculture. Vernal pool fairy shrimp are protected on lands, such as conservation banks, protected by perpetual conservation easements and managed specifically for the species and its habitat (e.g., Arroyo Seco, Bryte Ranch, Clay Station, Laguna Creek, Sunrise Douglas, Aqua Fria, Viera Sandy Mush, Kennedy Table, Dolan Ranch, Dove Ridge, Wildlands—Sheridan, Stillwater Plains, Campbell Ranch, and Fitzgerald Ranch; Sacramento NWR Complex, San Francisco NWR, and San Luis NWR Complex; and Vina Plains Ecological Reserve, Jepson Plains, Grasslands Ecological Area, Stone Corral Ecological Preserve, and Howard Ranch; and the lands preserved and protected through the UC Merced project). Vernal pool tadpole shrimp occur on lands with perpetual conservation easements managed explicitly for the species on conservation banks (e.g., Stillwater Plains, Campbell Ranch, Arroyo Seco, Bryte Ranch, Clay Station, Laguna Creek, Sunrise Douglas, Viera Sanda Mush, Kennedy Table, Dolan Ranch, Dove Ridge, Wildlands—Sheridan, and Fitzgerald Ranch; Sacramento NWR Complex, San Francisco NWR, and San Luis NWR Complex; and Nature Conservancy easements, Vina Plains Ecological Reserve, Jepson Plains, Grasslands Ecological Area, Dale's Lake Ecological Reserve, Stone Corral Ecological Preserve, and Big Table Mountain Ecological Preserve). Therefore these lands with perpetual conservation easements will contribute to the conservation and recovery of Conservancy fairy shrimp, vernal pool fairy shrimp, and vernal pool tadpole shrimp.

Eleven Listed Vernal Pool Plant Species

We believe that exclusion of the 23 census tracts and 2 public sector projects, which we consider to be occupied habitat, will not result in extinction of any of the 11 listed vernal pool plants. Federal actions that might adversely affect these 11 listed plants would thus undergo a consultation with the Service under the requirements of section 7 of the Act. The jeopardy standard of section 7 of the Act, and routine implementation of habitat preservation as part of the section 7 process, as discussed in the draft economic analysis, provide insurance that the species will not go extinct. The exclusion leaves these protections unchanged from those that would exist if the excluded areas were designated as critical habitat.

Critical habitat is designated for all 11 species in other areas that are accorded the protection from adverse modification by federal actions using the conservation standard based on the Ninth Circuit decision in *Gifford Pinchot.* Additionally, all species occur on lands protected and managed either explicitly for the species, or indirectly through more general objectives to protect natural values. This protection and management will contribute to the recovery of the 11 listed vernal pool plant species. These factors acting in concert with the other protections provided under the Act for these lands, absent designation of critical habitat on them, and acting in concert with protections afforded each species by the

designated critical habitat for each species, lead us to find that exclusion of these 23 census tracts and 2 public sector projects will not result in extinction of any of these 11 listed vernal pool plants. *Limnanthes floccosa* ssp. *californica* occurs on land protected by conservation easements on several small reserves in Butte County and at the Dove Ridge Conservation Bank. *Lasthenia conjugens* exists on protected lands on San Francisco Bay National Wildlife Refuge, Fort Ord, Travis Air Force Base, and the State Route 4 Preserve. *Chamaesyce hooveri* occurs on the Sacramento NWR Complex, the Vina Plains Ecological Preserve, Stone Corral Ecological Reserve, and the Bert King Ranch. *Castilleja campestris* spp. *succulenta* occurs on protected lands within the Big Table Mountain Ecological Reserve and the Big Table Mountain Preserve, the Kennedy Table Conservation Bank, and the Flying M Ranch (Merced Co.). *Neostapfia colusana* occurs on protected lands within the Jepson Prairie Preserve and the Flying M Ranch. *Tuctoria greenei* occurs on protected lands within the Vina Plains Preserve and on the Sacramento NWR Complex. *Orcuttia pilosa* occurs on protected lands within the Vina Plains Preserve and on the Sacramento NWR Complex. *Orcuttia viscida* occurs on protected lands within the Phoenix Field Ecological Reserve, the Arroyo Seco Conservation Bank, and the Sunrise Douglas preserve. *Orcuttia inaequalis* occurs on protected lands on the Flying M Ranch and on an ecological reserve managed by the California Department of Fish and Game. *Orcuttia tenuis* occurs on protected lands at the Boggs Lake Preserve, the Vina Plains Preserve, the Dale's Lake Ecological Reserve, the Stillwater Plains Conservation Banks, the Arroyo Seco Conservation Bank, and the Sunrise Douglas preserve. *Tuctoria mucronata* occurs on protected land on the Jepson Prairie Preserve.

References Cited

A complete list of all reference cited herein is available upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 23, 2007.

Todd Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–10448 Filed 5–30–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XA57

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS has determined that the Atlantic tunas General and Highly Migratory Species (HMS) Angling categories daily Atlantic bluefin tuna (BFT) retention limits should be adjusted for the 2007 fishing year, which begins on June 1, 2007, and ends December 31, 2007. The adjustment will allow for maximum utilization of the General category June through August time-period subquota, and will enhance recreational BFT fishing opportunities aboard HMS Angling and Charter/Headboat vessels in the early portion of the season. Therefore, NMFS increases the daily BFT retention limits to provide enhanced commercial and recreational fishing opportunities in all areas without risking overharvest of the General and Angling category quotas.

DATES: The effective dates for the BFT daily retention limits are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories.

NMFS has proposed 2007 fishing year specifications to set BFT quotas and to set effort controls for the General category and Angling category (72 FR 16318, April 4, 2007). NMFS intends to publish a notice in the **Federal Register** to finalize the specifications and effort controls in June 2007.

Daily Retention Limits

Pursuant to this action, the daily BFT retention limits for the Atlantic tunas General, HMS Angling, and HMS Charter/Headboat categories are as follows:

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS

Permit Category	Effective Dates	Areas	BFT Size Class Limit
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially)	June 1 through July 31, 2007, inclusive, or through the effective date of the final 2007 BFT specifications, whichever occurs first.	All	Three BFT per vessel per trip, measuring 73 inches (185 cm) curved fork length (CFL) or greater.
HMS Angling and HMS Charter/Headboat (while fishing commercially)	June 1 through July 31, 2007, inclusive, or through the effective date of the final 2007 BFT specifications, whichever occurs first.	All	One school BFT measuring 27 inches to less than 47 inches CFL (69 cm to less than 119 cm) and two large school/small medium BFT, measuring 47 inches to less than 73 inches CFL (119 cm to less than 185 cm) per vessel.

Adjustment of Daily Retention Limits

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel to provide for maximum utilization of the General category quota for BFT. In addition, under 50 CFR 635.23(b)(3), NMFS may increase or decrease the retention limit for any size class of BFT, or change a vessel trip limit to an angler trip limit and vice versa to provide for maximum utilization of the Angling category quota for BFT over the longest period of time.

Such adjustments, to either the commercial or recreational retention limits, are based on NMFS' consideration of the criteria provided under § 635.27(a)(8), which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

The proposed specification considered the same limits and received favorable public support. From June 1, 2007, until the final specifications take effect, the default commercial General category daily retention limit located at § 635.23(a)(2) is one large medium or giant BFT (measuring 73 inches (185 CM) curved fork length (CFL)) or greater per vessel per day/trip. This is the retention limit for General category permitted vessels and HMS Charter/Headboat permitted vessels (when commercially fishing under the General category). Also starting on June 1, 2007, the default recreational Angling category retention limit at § 635.23(b)(2)(ii) is one school, large school or small medium BFT (measuring 27 inches (69 cm) to less than 73 inches (119 cm) CFL) per vessel per day/trip. This is the retention limit for permitted HMS Angling and HMS Charter/Headboat vessels (when recreationally fishing under the Angling category).

NMFS has considered the set of criteria listed above and their applicability to both the commercial and recreational BFT retention limits for the early portion of the 2007 fishing year until the final specifications become effective. Based on these considerations, NMFS has determined that the General category retention should be adjusted. Therefore, NMFS increases the General and Angling category retention limits from the default limits effective June 1 through July 31, 2007, or until the final specifications are effective. This adjustment increases the General category daily retention limit to three large medium or giant BFT, measuring 73 inches (185 cm) CFL or greater, per vessel per day/trip and Angling category daily retention limit to one school BFT (27 inches (69 cm) to less than 47 inches (119 cm)), and two large school/small medium BFT (measuring 47 inches (119 cm) to less than 73 inches (185 cm)) per vessel per day/trip. This General category retention limit is effective in all areas, except for the Gulf of Mexico, and apples to those vessel permitted in the General category as well as those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

This Angling category retention limit is effective in all areas, except for the Gulf of Mexico, and applies to those vessels permitted in the HMS Angling category as well as those HMS Charter/Headboat permitted vessels fishing recreationally.

Monitoring and Reporting

NMFS selected the daily retention limits and their duration after examining an array of data as it pertains to the determination criteria. This data included, but was not limited to current and previous catch and effort rates, quota availability, previous public comments on inseason management measures, stock status, etc. NMFS will continue to monitor the BFT fishery closely through dealer landing reports, the Automated Landings Reporting System, state harvest tagging programs in North Carolina and Maryland, and the Large Pelagics Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access the internet at *www.hmspermits.gov*, for updates on quota monitoring and retention limit adjustments.

Classification

The Assistant Administrator for NMFS (AA), finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

NMFS continues to receive information refining its understanding of both the commercial and recreational sector's specific needs regarding retention limits early in the 2007 season. NMFSassessments and analyses show that there is sufficient quota for an increase to the General category retention limit as well as an increase to the recreational BFT retention limit for the start of the 2007 season. Prior experience from the past several years also has shown that the General and Angling categories tend to start slowly and adjustment to the retention limits are necessary to maximize the utilization of the respective quotas.

NMFS has recently become aware of increased availability of large medium and giant BFT off southern Atlantic fishing grounds from fishing reports, vessels participating in other fisheries, and landings data from dealers. This increase in abundance provides the potential to increase General category landings rates if fishery participants are authorized to harvest three large medium or giant BFT per day. NMFS has also recently become aware of increased availability of recreational size class BFT in close proximity to the shores of mid-Atlantic states, as reported by researchers and recreational fishermen in the area, as well as communications with staff from state agencies. This increase in abundance provides the potential to increase positive social and indirect economic benefits from this recreational portion of the BFT fishery. Another benefit of increasing the recreational retention limit would be the continuation of the NMFS length-weight conversion study, which is important to the management of BFT fisheries.

The regulations implementing the HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery.

Affording prior notice and opportunity for public comment to implement these retention limits is impracticable as it would preclude NMFS from acting promptly to allow harvest of BFT that are available on the fishing grounds. Analysis of available data shows that the respective General and Angling category BFT retention limits may be increased with minimal risks of exceeding the ICCAT allocated quota.

Delays in increasing these retention limits would adversely affect those General, Angling, and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limits one BFT per day and may exacerbate the problem of low catch rates, quota rollovers, or lack of booked charters/private trips. Limited opportunities to harvest the respective quotas may have negative social and economic impacts to U.S. fishermen that either depend upon catching the available quota within the time periods designated in the HMS FMP, or depend on multiple BFT retention limits to attract individuals to book charters, as well as embarking on private recreational trips. For both the General and the recreational sectors, an adjustment to the retention limits needs to be effective June 1, the start of the season, for the impacted sectors to benefit from the adjustments so as to not preclude early season fishing opportunities from fishermen who only have access to the fishery at the beginning of the season.

Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, and because this action relieves a restriction (i.e., current default retention limit is one fish per vessel/trip but this action increases that limit and allows retention of more fish), there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4) and (b)(3) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 25, 2007.

Alan D. Risenhoover,

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

[FR Doc. 07–2692 Filed 5–25–07; 1:48 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 104
Thursday, May 31, 2007

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25239; Directorate Identifier 2006–NE–23–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Aircraft Engine Group (GEAE) CF6–45A Series, CF6–50A, CF6–50C Series and CF6–50E Series Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for GEAE CF6–45A, 45A2, –50A, –50C, –50CA, –50C1, –50C2, –50C2B, –50C2D, –50C2F, –50C2R, –50E, –50E1, –50E2, and –50E2B turbofan engines. This proposed AD would require replacing the compressor discharge pressure (CDP) restoring spring assembly on certain main engine controls (MECs) or re-marking MECs that already incorporate GEAE Service Bulletin (SB) No. CF6–50 S/B 73–0119, dated March 21, 2005. This proposed AD results from reports of five events involving fractured CDP restoring spring assemblies. We are proposing this AD to prevent loss of engine thrust control that could lead to loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by July 30, 2007.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from General Electric Company via GE-Aviation, Attn: Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246; telephone (513) 552–3272; fax (513) 552–3329.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7773; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–25239; Directorate Identifier 2006–NE–23–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DOT Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.).

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the DOT Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

Discussion

We received reports of five field events since 2002, which involved fractured CDP restoring spring assemblies. Four events resulted in in-flight shutdowns, and one event occurred during ground operation and resulted in an engine shutdown.

Before 1996, the manufacturer of the spring assemblies welded some spring assemblies such that the gap between the spring and the curved spring seat exceeded 0.002 inch. Analysis shows that spring assemblies with gaps greater than 0.002 inch have high stresses in the spring and can fatigue in the heat affected zone of the weld.

Fracture of the spring assembly could cause excessive fuel flow from the MEC, which could result in an uncommanded increase in engine thrust with loss of throttle control. This condition, if not corrected, could result in loss of engine thrust control that could lead to loss of control of the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of GEAE SB No. CF6–50 S/B 73–0119, Revision 02, dated March 9, 2007, that describes procedures for replacing the CDP restoring spring assembly and re-marking the MEC data plate, and GEAE SB No. CF6–50 S/B 73–0120, dated March 21, 2007 that describes procedures for replacing the CDP restoring spring assembly.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD,

which would require replacing the CDP restoring spring assembly on certain MECs and re-marking MECs that already incorporate GEAE SB No. CF6–50 S/B 73–0119, dated March 21, 2005 or GEAE SB No. CF6–50 S/B 73–0119, Revision 01, dated May 26, 2006. The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 756 GEAE CF6–45A, –50C, and –50E series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 40 work-hours per engine to perform the proposed actions, and that the average labor rate is $80 per work-hour. Required parts would cost about $1,787 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $3,770,172.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2006–25239; Directorate Identifier 2006–NE–23–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by July 30, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company Aircraft Engine Group (GEAE) CF6–45A, 45A2, –50A, –50C, –50CA, –50C1, –50C2, –50C2B, –50C2D –50C2F, –50C2R, –50E, –50E1, –50E2, and –50E2B turbofan engines that have a main engine control (MEC) with a part number (P/N) specified in Table 1 of this AD installed. These engines are installed on, but not limited to, Airbus A300 series airplanes, McDonnell Douglas DC–10, KC–10, and MD–10 series airplanes, and Boeing 747 series airplanes.

TABLE 1.—AFFECTED WOODWARD AND GEAE P/NS FOR MECS BY ENGINE MODEL SERIES

Engine model series	Woodward P/N	GEAE P/N
CF6–50A, –50C, –50CA, –50C1, –50C2, –50C2B, –50C2D, –50C2F, –50C2R	8062–275	9070M55P42
	8062–279	9070M55P44
	8062–287	9070M55P49
	8062–289	9070M55P51
	8062–819	9070M55P101
	8062–822	9070M55P102
	8062–824	9070M55P103
	8062–823	9070M55P104
	8062–826	9070M55P105
	8062–827	9070M55P106
	8062–828	9070M55P107
	8062–829	9070M55P108
CF6–45A, –45A2, –50E, –50E1, –50E2, –50E2B	8062–276	9187M29P10
	8062–280	9187M29P11
	8062–290	9187M29P14
	8062–291	9187M29P15
	8062–817	9187M29P100
	8062–820	9187M29P101
	8062–896	9187M29P22
	8062–897	9187M29P23
	8062–898	9187M29P20
	8062–899	9187M29P21

(d) This AD results from reports of five events involving fractured compressor discharge pressure (CDP) restoring spring assembly. We are issuing this AD to prevent loss of engine thrust control that could lead to loss of control of the airplane.

Compliance

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

Replacing the CDP Restoring Spring Assembly on CF6–50A Engines and –50C Series Engines

(f) For CF6–50A model engines and –50C series engines that have an MEC that has a P/N listed in Table 1 of this AD, replace the CDP restoring spring assembly as follows in Table 2 of this AD:

TABLE 2.—COMPLIANCE SCHEDULE FOR CF6–50A AND –50C ENGINES

If the CDP restoring spring assembly in your MEC	Then	By	Use
(1) Was already replaced using GEAE CF6–50 S/B 73–0119, dated March 21, 2005.	Re-mark the MEC	The next time the MEC is routed for repair such as the next MEC shop visit.	Paragraph 3.A. of the Accomplishment Instructions of SB No. CF6–50 S/B 73–0119, Revision 02, dated March 9, 2007.
(2) Was already replaced within 10,000 or fewer hours time-in-service (TIS) before the effective date of this AD, and the replacement spring assembly (P/N 3018–248) had zero hours TIS.	Replace the spring assembly and re-mark the MEC.	The first MEC shop visit or engine shop visit after the MEC exceeds 10,000 hours TIS, but do not exceed 20,000 hours TIS.	Paragraph 3.A. of the Accomplishment Instructions of SB No. CF6–50 S/B 73–0119, Revision 02, dated March 9, 2007.
(3) Has more then 10,000 hours TIS.	Replace the spring assembly and re-mark the MEC.	The next MEC shop visit or engine shop visit whichever occurs first.	Paragraph 3.A. of the Accomplishment Instructions of SB No. CF6–50 S/B 73–0119, Revision 02, dated March 9, 2007.

Replacing the CDP Restoring Spring Assembly on CF6–45A and –50E Series Engines

(g) For CF6–45A series and –50E series engines that have an MEC that has a P/N listed in Table 1 of this AD, replace the CDP restoring spring assembly as follows in Table 3 of this AD:

TABLE 3.—COMPLIANCE SCHEDULE FOR CF6–45A AND –50E ENGINES

If the CDP restoring spring assembly in your MEC	Then	By	Use
(1) Was already replaced within 10,000 or fewer hours time-in-service (TIS) before the effective date of this AD, and the replacement spring assembly (P/N 3018–248) had zero hours TIS.	Replace the spring assembly and re-mark the MEC.	The first MEC shop visit or engine shop visit after the MEC exceeds 10,000 hours TIS, but do not exceed 20,000 hours TIS.	Paragraph 3.A. of the Accomplishment Instructions of SB No. CF6–50 S/B 73–0120, dated March 21, 2007.
(2) Has more then 10,000 hours TIS.	Replace the spring assembly and re-mark the MEC.	The next MEC shop visit or engine shop visit whichever occurs first.	Paragraph 3.A. of the Accomplishment Instructions of SB No. CF6–50 S/B 73–0120, dated March 21, 2007.

Definition

(h) For the purpose of this AD, a shop visit is induction of the engine or MEC into the shop for any cause.

Installation Prohibition

(i) After the effective date of the AD, do not install an MEC that:

(1) Has not complied with SB No. CF6–50 S/B 73–0119, Revision 02, dated March 9, 2007 or earlier revision, or SB No. CF6–50 S/B 73–0120, dated March 21, 2007, or,

(2) Has not had the CDP restoring spring replaced with a spring assembly, P/N 3018–248, or FAA-approved equivalent spring assembly, within the previous 10,000 hours of MEC operation.

Alternative Methods of Compliance

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) None.

Issued in Burlington, Massachusetts, on May 23, 2007.

Fran A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E7–10512 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 62

RIN: 1400–AC29

[Public Notice 5819]

Exchange Visitor Program—Sanctions and Terminations

AGENCY: Department of State.

ACTION: Proposed rule with request for comment.

SUMMARY: The U.S. Department of State (Department) is proposing to revise its regulations presently set forth at 22 CFR Part 62, Subpart D (Sanctions) and 22 CFR Part 62, Subpart E (Termination and Revocation of Programs). The

revised § 62.50 will retain many, but not all, of the provisions of the current regulations, and modifies the reasons for which sanctions may be imposed. One difference in the proposed regulation is the substitution of a panel of three Review Officers to conduct a ''paper review'' in lieu of a trial-type hearing. This streamlined review process will continue to provide full procedural due process rights. Subpart E, § 62.60 proposes to amend existing regulations to provide for program termination in the case of failure to file an annual management audit, in program categories requiring such audits. A new § 62.62 will provide for termination or denial of redesignation for an entire class of designated programs, if the Department determines that they compromise the national security of the United States, or no longer further the public diplomacy mission of the Department.

DATES: The Department will accept comments from the public up to 60 days from May 31, 2007.

ADDRESSES: You may submit comments, identified by any of the following methods:

- *Persons with access to the internet may also view this notice and provide comments by going to the regulations.gov Web site at: http://www.regulations.gov/index.cfm*
- *Mail (paper, disk, or CD–ROM submissions):* U.S. Department of State, Office of Exchange Coordination and Designation, SA–44, 301 4th Street, SW., Room 734, Washington, DC 20547
- *E-mail: jexchanges@state.gov.* You must include the RIN (1400–AC29) in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Director, Office of Exchange Coordination and Designation, U.S. Department of State, SA–44, 301 4th Street, SW., Room 734, Washington, DC 20547, (202) 203–7415; or e-mail at *jexchanges@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State is authorized to facilitate and direct educational and cultural exchange activities in order to develop and promote mutual understanding between the people of the United States and other countries of the world, and thus directly impact the relationships between the United States and foreign governments. Educational and cultural exchange is the cornerstone of United States public diplomacy, an integral component of the foreign affairs function of the Department. As set forth in the Regulations, educational and cultural exchanges assist the Department in furthering the foreign policy objectives of the United States. (22 CFR 62.1)

The Department designates U.S. government, academic, and private sector entities to conduct educational and cultural exchange programs pursuant to a broad grant of authority provided by the Mutual Educational and Cultural Exchange Act of 1961, as amended (Fulbright-Hays Act), 22 U.S.C. 2451 *et seq.*; the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(J); the Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277; as well as other statutory enactments, Reorganization Plans and Executive Orders. Under those authorities, designated program sponsors facilitate the entry into the United States of more than 300,000 exchange participants each year.

The former United States Information Agency (USIA) and, as of October 1, 1999, its successor, the U.S. Department of State, have promulgated regulations governing the Exchange Visitor Program. Those regulations now appear at 22 CFR Part 62. Regulations governing sanctions appear at 22 CFR 62.50, and regulations governing termination of a sponsor's designation, at 22 CFR 62.60 through 62.62. The ultimate goals of the sanctions regulations are to further the foreign policy interests of the United States, including protecting the health, safety and welfare of Exchange Visitor Program participants. These regulations largely have remained unchanged since 1993, when USIA undertook a major regulatory reform of the Exchange Visitor Program.

The Fulbright-Hays Act is the organic legislation underpinning the entire Exchange Visitor Program. Section 101 of that Act sets forth its purpose: ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange. * * *'' The Act authorizes the President to provide for such exchanges if it would strengthen international cooperative relations. The language of the Act and its legislative history make it clear that the Congress considered international educational and cultural exchanges to be a significant part of the public diplomacy efforts of the President in connection with Constitutional prerogatives in conducting foreign affairs. Thus, exchange visitor programs that do not further the public diplomacy goals of the United States should not be designated initially, or retain their designation. Accordingly, it is imperative that the Department have the power to revoke program designations or deny applications for program redesignation when it determines that such programs do not serve the country's public diplomacy goals.

The overwhelming majority of designated exchange visitor programs have been a credit to this country's public diplomacy efforts. They adhere to the Department's regulations and clearly further the goals of the Fulbright-Hays Act. Indeed, since 1993, when the Exchange Visitor Program regulations were substantially revised, there have been only five programs whose designations have been revoked. Several programs facing the threat of revocation voluntarily surrendered their designation. However, the Department's Office of Exchange Coordination and Designation (the Office) has imposed lesser sanctions pursuant to current § 62.50 on more than 100 exchange visitor programs since 1993 for various regulatory violations. The experience of the last 12 years has demonstrated that the current sanction regulations, particularly those governing lesser sanctions, have been useful in deterring bad acts and rehabilitating otherwise productive public diplomacy programs. Nevertheless, after 12 years of service, the sanction regulations need clarification and fine-tuning.

The proposed regulations slightly modify two of the existing reasons for which the Department may sanction a sponsor, by eliminating the requirement that violations, or patterns of violations, of Part 62 be willful or negligent. Sponsors are required to demonstrate thorough knowledge of Part 62's requirements, and thus any violation or pattern of violation would, arguably, be willful or negligent. Moreover, given the critical role the Exchange Visitor Program plays in the Department's public diplomacy mission, the Department must have the discretion to sanction a sponsor when appropriate, whether or not willfulness or negligence is shown.

In addition, under the proposed regulation the Department may sanction a sponsor for two new reasons. The Department may sanction a sponsor for conducting its program in such a way as to undermine the foreign policy objectives of the United States, or compromise the national security interests of the United States.

The existing provision for ''lesser sanctions'' is incorporated in the proposed regulation, with minor modification. As the term implies, such sanctions are imposed for less serious violations of 22 CFR Part 62. The Office will continue to impose lesser sanctions on designated program sponsors that the

Office believes have inherent merit, but which have indulged in troublesome practices that threaten their continued designation. Lesser sanctions may include up to a 15 percent (15%) initial reduction in the authorized number of exchange visitors in the sponsor's program or in its geographic area of recruiting or activity, with the imposition of subsequent additional reductions in ten percent (10%) increments if violations continue. The proposed regulation provides that recipients of lesser sanctions will have an opportunity to plead their cases in opposition to or mitigation of the sanctions, in a written submission to the Office, which may lead to the Office's modification or withdrawal of the sanction. The decision of the Office is the final agency decision with regard to lesser sanctions.

The proposed regulation provides for four major sanctions: suspension of a program designation, revocation of a program designation, denial of an application for program redesignation, and suspension or revocation of the appointment of a Responsible or Alternate Responsible Officer. The procedures for the major sanctions are essentially the same, with the major difference being that the Office may impose suspension with immediate effectiveness, and a sponsor's initial opposition, submitted to the PDAS, or subsequent request for review by the Review Officer panel does not stay the effective date of that sanction. In addition, the procedure for imposing a suspension, opposition by the sponsor, and decision by the PDAS to confirm, modify or withdraw the suspension, are substantially expedited. This allows the Department to respond quickly when it appears that a sponsor has endangered the health, safety, or welfare of an exchange visitor, or damaged the national security interests of the United States, and also assures the sponsor of a speedy decision by the PDAS.

The process for reviewing the decision of the PDAS is essentially the same for all major sanctions. The PDAS must serve on the sponsor a written notice confirming, modifying or withdrawing the sanction, setting out the grounds of the decision, specifying the effective date, and explaining the procedures for requesting review. A timely request by the sponsor for review stays the effective date of the sanction except, as noted above, in the case of suspension. Upon receipt of a request for review, the Department must constitute a panel of three Review Officers, one each designated by the Under Secretary of State for Public Diplomacy and Public Affairs, the Assistant Secretary for Consular Affairs, and the Legal Adviser. After the panel notifies the parties that it has been constituted, the sponsor files a written submission setting out its arguments for reversal or modification of the sanction, with supporting documentary evidence; the PDAS then files a written submission in response. Additional submissions are allowed only at the request of the Review Officers. The Review Officers may determine, in their discretion, to schedule a short meeting whose purpose is limited to clarification of the written submissions. There will be no transcript of such meeting, and no one may submit evidence. Within 30 days after the meeting, or if none is scheduled, after the last written submission, the panel issues a signed, written decision.

22 CFR 62.50 currently contemplates a trial-type hearing for review of sanction decisions by the PDAS. These trial-type procedures are not required by any applicable statute. The Department has found them to be unwieldy, burdensome and time-consuming, both for itself and for sponsors. The sanction process, including a paper review, set out in this proposed rule would ensure sponsors of adequate notice, an opportunity to be heard, and a reasoned decision made upon a clear, manageable record. The Department believes that these provisions protect sponsors from the possibility of any sanction that might be deemed to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and thus satisfy the requirements of procedural due process.

The proposed regulation also modifies Subpart E. Current § 62.60 lists circumstances in which a program designation terminates automatically, not as a result of the imposition of a sanction. These circumstances currently are: voluntary termination; inactivity for a specified period; failure to file annual reports for two consecutive years; change of ownership or control; failure to remain in compliance with local, state, federal or professional requirements necessary to carry out the program activity, including loss of accreditation or licensure; and failure to apply for redesignation prior to the conclusion of the current designation period. These provisions are continued, with minor revisions, in the proposed rule. In addition, § 62.60 is amended to include termination of program designation for failure to submit a management audit, in any program category requiring such an audit. Currently this is a requirement only for sponsors of Au Pair programs, but the Department is in the process of revising Subpart A to include the requirement of an annual management audit for additional categories. Finally, a new § 62.62 is proposed, providing for instances in which the Department determines that an entire program category compromises the national security of the United States, or no longer furthers the public diplomacy mission of the Department. Such a determination is inherently within the discretion of the Department, and the proposed rule makes this explicit. Under the proposed rule, if the Department makes such a determination it may either revoke the designations of all programs within the affected class, or deny applications for redesignation within that class, as current designation periods expire.

Regulatory Analysis

Administrative Procedure Act, Unfunded Mandates Reform Act of 1995, and Small Business Regulatory Enforcement Fairness Act of 1996

The Department has determined that this Proposed Rule involves a foreign affairs function of the United States and is consequently exempt from the procedures required by 5 U.S.C. 553 pursuant to 5 U.S.C. 553(a)(1). Nonetheless, because of its importance to the public, the Department has elected to solicit comments during a 60-day comment period.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small businesses.

The Proposed Rule has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not have a substantial effect on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it has been determined that the Proposed Rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Orders 12372 and 13132.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Since this rulemaking is exempt from 5 U.S.C 553, and no other law requires

the Department to give notice of proposed rulemaking, this rulemaking also is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or Executive Order 13272, section 3(b). [Nonetheless, the Department has analyzed the provisions of the Proposed Rule and certifies that they will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Executive Order 12866, as Amended

The Department does not consider this Proposed Rule to be a ''significant regulatory action'' under Executive Order 12866, as amended, § 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the Proposed Rule to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 12988

The Department has reviewed this Proposed Rule in light of §§ 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Paperwork Reduction Act

This Proposed Rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 62

Cultural Exchange Programs.

Accordingly, 22 CFR part 62 is proposed to be amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

1. The Authority citation for part 62 is proposed to be amended as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, Div. G, 112 Stat. 2681–761 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168; the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. 104–208, Div. C, 110 Stat. 3009–546, as amended; Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT) (Pub. L. 107–56), Sec. 416, 115 Stat. 354; and the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107–173, 116 Stat. 543.

2. Section 62.50 is revised to read as follows:

§ 62.50 Sanctions.

(a) *Reasons for sanctions.* The Department of State (Department) may impose sanctions against a sponsor upon a finding by its Office of Exchange Coordination and Designation (the Office) that the sponsor has:

(1) Violated one or more provisions of this part;

(2) Evidenced a pattern of failure to comply with one or more provisions of this Part;

(3) Committed an act of omission or commission, which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor; or

(4) Otherwise conducted its program in such a way as to undermine the foreign policy objectives of the United States, compromise the national security interests of the United States, or bring the Department or the Exchange Visitor Program into notoriety or disrepute.

(b) *Lesser sanctions.* (1) In order to ensure full compliance with the regulations in this Part, the Department, in its discretion and depending on the nature and seriousness of the violation, may impose any or all of the following sanctions (''lesser sanctions'') on a sponsor upon a finding that the sponsor engaged in any of the acts or omissions set forth in paragraph (a)of this section:

(i) A written reprimand to the sponsor, with a warning that repeated or persistent violations of the regulations in this Part may result in suspension or revocation of the sponsor's Exchange Visitor Program designation, or other sanctions as set forth herein;

(ii) A declaration placing the exchange visitor sponsor's program on probation, for a period of time determined by the Department in its discretion, signifying a pattern of violation of regulations such that further violations could lead to suspension or revocation of the sponsor's Exchange Visitor Program designation, or other sanctions as set forth herein;

(iii) A corrective action plan designed to cure the sponsor's violations; or

(iv) Up to a 15 percent (15%) reduction in the authorized number of exchange visitors in the sponsor's program or in the geographic area of its recruitment or activity. If the sponsor continues to violate the regulations in this Part, the Department may impose subsequent additional reductions, in ten percent (10%) increments, in the authorized number of exchange visitors in the sponsor's program or in the geographic area of its recruitment or activity.

(2) Within ten (10) days after service of the written notice to the sponsor imposing any of the sanctions set forth in this paragraph, the sponsor may submit to the Office a statement in opposition to or mitigation of the sanction. Such statement shall not exceed 20 pages in length, double-spaced and, if appropriate, may include additional documentary material. Sponsors shall include with all documentary material an index of the documents and a summary of the relevance of each document presented. Upon review and consideration of such submission, the Office may, in its discretion, modify, withdraw, or confirm such sanction. All materials the sponsor submits shall become a part of the sponsor's file with the Office.

(3) The decision of the Office is the final Department decision with regard to lesser sanctions in paragraphs (b)(1)(i) through (iv) of this section.

(c) *Suspension.* (1) Upon a finding that a sponsor has committed a serious act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor, or of damaging the national security interests of the United States, the Office may serve the sponsor with written notice of its decision to suspend the designation of the sponsor's program for a period not to exceed 120 days. Such notice shall specify the grounds for the sanction and the effective date thereof, advise the sponsor of its right to oppose the suspension, and identify the procedures for submitting a statement of opposition thereto. Suspension under this paragraph need not be preceded by the imposition of any other sanction or notice

(2)(i) Within five (5) days after service of such notice, the sponsor may submit

to the Principal Deputy Assistant Secretary for Educational and Cultural Affairs a statement in opposition to the Office's decision. Such statement shall not exceed 20 pages in length, double-spaced, and if appropriate, may include additional documentary material. Sponsors shall include with all documentary material an index of the documents and a summary of the relevance of each document presented. The submission of a statement in opposition to the Office's decision shall not serve to stay the effective date of the suspension.

(ii) Within five (5) days after receipt of, and upon consideration of, such opposition, the Principal Deputy Assistant Secretary shall confirm, modify or withdraw the suspension by serving the sponsor with a written decision. Such decision shall specify the grounds therefor, and advise the sponsor of the procedures for requesting review of the decision.

(iii) All materials the sponsor submits shall become a part of the sponsor's file with the Office.

(3) The procedures for review of the decision of the Principal Deputy Assistant Secretary are set forth in paragraphs (d)(3), (d)(4), (g) and (h) in this section, except that the submission of a request for review shall not serve to stay the suspension.

(d) *Revocation of designation.* (1) Upon a finding of any act or omission set forth at paragraph (a) of this section, the Office may serve a sponsor with not less than 30 days' written notice of its intent to revoke the sponsor's Exchange Visitor Program designation. Such notice shall specify the grounds for the proposed sanction and its effective date, advise the sponsor of its right to oppose the proposed sanction, and identify the procedures for submitting a statement of opposition thereto. Revocation of designation under this paragraph need not be preceded by the imposition of any other sanction or notice.

(2) (i) Within ten (10) days after service of such written notice of intent to revoke designation, the sponsor may submit to the Principal Deputy Assistant Secretary for Educational and Cultural Affairs a statement in opposition to or mitigation of the proposed sanction, which may include a request for a meeting.

(ii) The submission of such statement shall serve to stay the effective date of the proposed sanction pending the decision of the Principal Deputy Assistant Secretary.

(iii) The Principal Deputy Assistant Secretary shall provide a copy of the statement in opposition to or mitigation of the proposed sanction to the Office. The Office shall submit a statement in response, and shall provide the sponsor with a copy thereof.

(iv) A statement in opposition to or mitigation of the proposed sanction, or statement in response thereto, shall not exceed 25 pages in length, double-spaced and, if appropriate, may include additional documentary material. Any additional documentary material shall include an index of the documents and a summary of the relevance of each document presented.

(v) Upon consideration of such statements, the Principal Deputy Assistant Secretary shall modify, withdraw, or confirm the proposed sanction by serving the sponsor with a written decision. Such decision shall specify the grounds therefore, identify its effective date, advise the sponsor of its right to request review, and identify the procedures for requesting such review.

(vi) All materials the sponsor submits shall become a part of the sponsor's file with the Office.

(3) Within ten (10) days after service of such written notice of the decision of the Principal Deputy Assistant Secretary, the sponsor may submit a request for review with the Principal Deputy Assistant Secretary. The submission of such request for review shall serve to stay the effective date of the decision pending the outcome of the review.

(4) Within ten (10) days after receipt of such request for review, the Department shall designate a panel of three Review Officers pursuant to paragraphs of this section, and the Principal Deputy Assistant Secretary shall forward to them all notices, statements, and decisions submitted or provided pursuant to the preceding sections of this paragraph. Thereafter, the review shall be conducted pursuant to paragraph (h) of this section.

(e) *Denial of application for redesignation.* Upon a finding of any act or omission set forth at § 62.50(a), the Office may serve a sponsor with not less than 30 days' written notice of its intent to deny the sponsor's application for redesignation. Such notice shall specify the grounds for the proposed sanction and its effective date, advise the sponsor of its right to oppose the proposed sanction, and identify the procedures for submitting a statement of opposition thereto. Denial of redesignation under this paragraph need not be preceded by the imposition of any other sanction or notice. The procedures for opposing a proposed denial of redesignation are set forth in paragraphs (d)(2), (d)(4), (g) and (h) of this section

(f) *Responsible officers.* The Office may direct a sponsor to suspend or revoke the appointment of a Responsible Officer or Alternate Responsible Officer for any of the reasons set forth in § 62.50(a). The procedures for suspending or revoking a Responsible Officer or Alternate Responsible Officer are set forth at paragraphs (d), (g), and (h) of this section.

(g) *Review officers.* A panel of three Review Officers shall hear sponsors' requests for review pursuant to § 62.50(c), (d), (e), and (f). The Under Secretary of State for Public Diplomacy and Public Affairs shall designate one senior official from an office reporting to him/her, other than the Bureau of Educational and Cultural Affairs, as a member of the Panel. The Assistant Secretary of State for Consular Affairs and the Legal Adviser shall each designate one senior official from their bureaus as members of the panel

(h) *Review.* The review Officers may affirm, modify, or reverse the sanction imposed by the Principal Deputy Assistant Secretary for Educational and Cultural Affairs. The following procedures shall apply to the review:

(1) Upon its designation, the panel of Review Officers shall promptly notify the Principal Deputy Assistant Secretary and the sponsor in writing of the identity of the Review Officers and the address to which all communications with the Review Officers shall be directed.

(2) Within 15 days after service of such notice, the sponsor may submit to the Review Officers four (4) copies of a statement identifying the grounds on which the sponsor asserts that the decision of the Principal Deputy Assistant Secretary should be reversed or modified. Any such statement shall not exceed 25 pages in length, double-spaced; and any attachments thereto shall not exceed 50 pages. Sponsors shall include with all attachments an index of the documents and a summary of the relevance of each document presented. The Review Officers shall transmit one copy of any such statement to the Principal Deputy Assistant Secretary, who shall, within 15 days after receipt of such statement, submit four (4) copies of a statement in response. Any such statement shall not exceed 25 pages in length, double-spaced; and any attachments thereto shall not exceed 50 pages. The Principal Deputy Assistant Secretary shall include with all attachments an index of the documents and a summary of the relevance of each document presented. The Review Officers shall transmit one copy of any such statement to the

sponsor. No other submissions shall be made unless specifically authorized by the Review Officers

(3) If the Review Officers determine, in their sole discretion, that a meeting for the purpose of clarification of the written submissions should be held, they shall schedule a meeting to be held within twenty (20) days after the receipt of the last written submission. The meeting shall be limited to no more than two hours. The purpose of the meeting shall be limited to the clarification of the written submissions. No transcript shall be taken and no evidence, either through documents or by witnesses, shall be received. The sponsor and the representative of the Principal Deputy Assistant Secretary may attend the meeting on their own behalf and may be accompanied by counsel.

(4) Following the conclusion of the meeting, or the submission of the last written submission if no meeting is held, the Review Officers shall promptly review the submissions of the sponsor and the Principal Deputy Assistant Secretary, and shall issue a signed written decision within thirty (30) days, stating the basis for their decision. A copy of the decision shall be delivered to the Principal Deputy Assistant Secretary and the sponsor.

(5) If the Review Officers decide to affirm or modify the sanction, a copy of their decision shall also be delivered to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), and to the Bureau of Consular Affairs of the Department of State. The Office, at its discretion, may further distribute the decision.

(6) Unless otherwise indicated, the sanction, if affirmed or modified, shall be effective as of the date of the Review Officers' written decision, except in the case of suspension of program designation, which shall be effective as of the date specified pursuant to paragraph (c) of this section.

(i) *Effect of suspension, revocation, or denial of redesignation.* A sponsor against which an order of suspension, revocation, or denial of redesignation has become effective shall not thereafter issue any Certificate of Eligibility for Exchange Visitor Status (form DS–2019) or advertise, recruit for, or otherwise promote its program. Under no circumstances shall the sponsor facilitate the entry of an exchange visitor into the United States. An order of suspension, revocation, or denial of redesignation shall not in any way diminish or restrict the sponsor's legal or financial responsibilities to existing program applicants or participants.

(j) *Miscellaneous.*

(1) *Computation of time.* In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is fewer than 11 days, intermediate Saturdays, Sundays, or federal legal holidays are excluded in the computation.

(2) *Service of notice on sponsor.* Service of notice on a sponsor pursuant to this section may be accomplished through written notice by mail, delivery, or facsimile, upon the president, managing director, General Counsel, responsible officer, or alternate responsible officer of the sponsor.

3. Subpart E is revised to read as follows:

Subpart E—Termination and Revocation of Programs

Sec.

62.60 Termination of designation.
62.61 Revocation.
62.62 Termination of, or denial of redesignation for, a class of designated programs.
62.63 Responsibilites of the sponsor upon termination or revocation.

§ 62.60 Termination of designation.

Designation shall be terminated automatically upon the occurrence of any of the circumstances set forth in this section.

(a) *Voluntary termination.* A sponsor notifies the Department of its intent to terminate its designation voluntarily and withdraws its program in SEVIS. The sponsor's designation shall terminate upon receipt of such notification. Such sponsor may reapply for program designation.

(b) *Inactivity.* A sponsor fails to comply with the minimum program size or duration requirements, as specified in § 62.8 (a) and (b), in any 12-month period. Such sponsor may reapply for program designation.

(c) *Failure to file annual reports.* A sponsor fails to file annual reports for two (2) consecutive years. Such sponsor is eligible to reapply for program designation upon the filing of the past due annual reports.

(d) *Failure to file an annual management audit.* A sponsor fails to file an annual management audit, if such audits are required in the relevant program category. Such sponsor is eligible to reapply for program designation upon the filing of the past due management audit.

(e) *Change in ownership or control.* A major change in ownership or control occurs. An exchange visitor program designation is not assignable or transferable. However, the successor sponsor may apply to the Department for redesignation, and it may continue the exchange visitor activities while approval of the application for redesignation is pending.

(1) With respect to a for-profit corporation, a major change in ownership or control shall be deemed to have occurred when thirty-three and one-third percent or more of its stock is sold or otherwise transferred within a 12-month period;

(2) With respect to a not-for-profit corporation, a major change of control shall be deemed to have occurred when fifty-one percent or more of the board of trustees or other like body, vested with its management, is replaced within a 12-month period.

(f) *Non-compliance with other requirements.* A sponsor fails to remain in compliance with local, state, federal, or professional requirements necessary to carry out the activity for which it is designated, including loss of accreditation or licensure.

(g) *Failure to apply for redesignation.* A sponsor fails to apply for redesignation pursuant to the terms and conditions of § 62.7, prior to the conclusion of its current designation period. If so terminated, the former sponsor may apply for a new designation, but the program activity shall be suspended during the pendency of the application.

§ 62.61 Revocation.

The Department may terminate a sponsor's program designation by revocation for cause as specified in § 62.50. Such sponsor may not apply for a new designation for five years following the effective date of the revocation.

§ 62.62 Termination of, or denial of redesignation for, a class of designated programs.

The Department may, in its sole discretion, determine that a class of designated programs compromises the national security of the United States, or no longer furthers the public diplomacy mission of the Department of State. Upon such a determination, the Office shall:

(a) Give all sponsors of such programs not less than 30 days' written notice of the revocation of Exchange Visitor Program designations for such

programs, specifying therein the grounds and effective date for such revocations; or

(b) Give any sponsor of such programs not less than 30 days' written notice of its denial of the sponsor's application for redesignation, specifying therein the grounds for such denial and effective date of such denial. Revocation of designation or denial of redesignation on the above-specified grounds for a class of designated programs is the final decision of the Department.

§ 62.63 Responsibilities of the sponsor upon termination or revocation.

Upon termination or revocation of its program designation, a sponsor must:

(a) Fulfill its responsibilities to all exchange visitors who are in the United States at the time of the termination or revocation; and

(b) Notify exchange visitors who have not entered the United States that the program has been terminated unless a transfer to another designated program can be obtained.

Dated: 23, 2007.

Stanley S. Colvin,

Director, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E7–10505 Filed 5–30–07; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4006 and 4007

RIN 1212–AB11

Premium Rates; Payment of Premiums; Variable-Rate Premium; Pension Protection Act of 2006

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is a proposed rule to amend PBGC's regulations on Premium Rates and Payment of Premiums. The amendments would implement provisions of the Pension Protection Act of 2006 (Pub. L. 109–280) that change the variable-rate premium for plan years beginning on or after January 1, 2008, and make other changes to the regulations. (Other provisions of the Pension Protection Act of 2006 that deal with PBGC premiums are the subject of separate rulemaking proceedings.)

DATES: Comments must be submitted on or before July 30, 2007.

ADDRESSES: Comments, identified by Regulatory Information Number (RIN) 1212–AB11, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *E-mail: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

All submissions must include the Regulatory Information Number for this rulemaking (RIN 1212–AB11). Comments received, including personal information provided, will be posted to *http://www.pbgc.gov*. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: John H. Hanley, Director, Legislative and Regulatory Department; or Catherine B. Klion, Manager, or Deborah C. Murphy, Attorney, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 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:

Background

Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Pension plans covered by Title IV must pay premiums to PBGC. The flat-rate premium applies to all covered plans; the variable-rate premium applies only to single-employer plans. Section 4006 of ERISA deals with premium rates, including the computation of premiums. Section 4007 of ERISA deals with the payment of premiums, including premium due dates and interest and penalties on premiums not timely paid, and with recordkeeping and audits.

On August 17, 2006, the President signed into law the Pension Protection Act of 2006, Pub. L. 109–280 (PPA 2006). PPA 2006 makes changes to the funding rules in Title I of ERISA and in the Internal Revenue Code of 1986 (Code) on which the variable-rate premium is based. Section 401(a) of PPA 2006 amends the variable-rate premium provisions of section 4006 of ERISA to conform to those changes in the funding rules and to eliminate the full-funding limit exemption from the variable-rate premium. This proposed rule would amend PBGC's regulations on Premium Rates (29 CFR part 4006) and Payment of Premiums (29 CFR part 4007) to implement the amendment to ERISA section 4006 made by PPA 2006. (PPA 2006 also includes other provisions affecting PBGC premiums that are not addressed in this rule, including provisions that cap the variable-rate premium for certain plans of small employers, make permanent the new ''termination premium'' (created by the Deficit Reduction Act of 2005) that is payable in connection with certain distress and involuntary plan terminations, and authorize PBGC's payment of interest on refunds of overpaid premiums. Those provisions are or will be the subject of other rulemaking actions.)

Overview of Proposed Regulatory Changes

For purposes of determining a plan's variable-rate premium (VRP) for a premium payment year beginning after 2007, the proposed rule would require unfunded vested benefits (UVBs) to be measured as of the funding valuation date for the premium payment year. The asset measure underlying the UVB calculation would be determined for premium purposes the same way it is determined for funding purposes, except that any averaging method adopted for funding purposes would be disregarded. The liability measure underlying the UVB calculation would be determined for premium purposes the same way it is determined for funding purposes, except that only vested benefits would be included and a special premium discount rate structure would be used. Filers would be able to make an election (irrevocable for five years) to use funding discount rates for premium purposes instead of the special premium discount rates.

The proposed rule would revise the premium due date and penalty structure to give some plans more time to file and others the ability to make estimated VRP filings and then follow up with adjusted final filings without penalty. Three special relief rules for VRP filers would be eliminated as no longer appropriate or necessary, and two new relief rules would be added.

The proposed rule would also explain when certain benefits are considered ''vested'' and would make some other changes unrelated to PPA 2006. For example, the proposed regulation would

provide explicitly that (in the absence of an exemption) a premium filing made on paper or in any other manner other than the prescribed electronic filing method (applicable to all plans for plan years beginning after 2006) does not satisfy the requirement to file. It would also clarify and strengthen recordkeeping and audit provisions.

A more detailed discussion follows.

Variable-Rate Premium Determination Dates

Under ERISA section 4006(a)(3)(E)(i) and (ii), a plan's per-participant VRP for a plan year is generally—

> $9.00 for each $1,000 (or fraction thereof) of unfunded vested benefits [''UVBs''] under the plan as of the close of the preceding plan year

divided by the plan's participant count as of the close of the preceding plan year. (Under ERISA section 4006(a)(3)(H), added by section 405 of PPA 2006, the per-participant VRP is capped at $5 times the participant count as of the close of the prior plan year for certain plans of small employers. The cap provision is the subject of another rulemaking.) Under ERISA section 4006(a)(3)(A)(i), the per-participant VRP is multiplied by the number of participants ''in [the] plan during the plan year'' to yield the total VRP. The existing premium rates regulation treats all of these provisions as referring to a single determination date. In most cases, this is the last day of the prior plan year; it is the first day of the premium payment year (the plan year for which the premium is being paid) for two categories of plans: new and newly covered plans (which are not in existence as covered plans on the last day of the prior plan year) and certain plans involved in plan spinoffs and mergers as of the beginning of the premium payment year (which otherwise would double-count or not count certain participants and UVBs for premium purposes).

The term ''unfunded vested benefits'' (''UVBs'') is defined in ERISA section 4006(a)(3)(E)(iii). In pre-PPA section 4006(a)(3)(E)(iii), ''UVBs'' is defined as unfunded current liability (a term found in the funding provisions of the Code and Title I of ERISA) determined by counting only vested benefits and using a special interest rate and (under certain circumstances) a special measure of plan assets. PPA 2006 changes the funding rules for single-employer plans, eliminating the concept of current liability for plan years beginning after 2007. (As discussed below, certain plans will not use the new funding rules until a later date.) To conform to this change, PPA 2006 changes the definition of UVBs in ERISA section 4006(a)(3)(E)(iii). As amended by PPA 2006, for plan years beginning after 2007, section 4006(a)(3)(E)(iii) provides that ''UVBs''—

> Means, for a plan year, the excess (if any) of * * * the funding target of the plan as determined under [ERISA] section 303(d) [corresponding to Code section 430(d)] for the plan year by only taking into account vested benefits and by using the interest rate described in [ERISA section 4006(a)(3)(E)(iv)], over * * * the fair market value of plan assets for the plan year which are held by the plan on the valuation date.

New ERISA section 303(g) says that with certain exceptions not relevant here, ''all determinations under this section [which includes the definition of ''funding target'' in section 303(d)(1)] for a plan year shall be made as of the valuation date of the plan for such plan year.'' Thus PBGC concludes that the ''valuation date'' for plan assets referred to in new section 4006(a)(3)(E)(iii) is the valuation date determined under section 303(g)(2). In general (under section 303(g)(2)(A)), the valuation date for a plan year is the first day of the plan year, but certain small plans may designate a different valuation date (under section 303(g)(2)(B)), which may be any day in the plan year.

The change in the definition of UVBs thus creates ambiguity about the date as of which UVBs are to be measured. Section 4006(a)(3)(E)(ii), which was not changed by PPA 2006, refers to two plan years—the ''plan year'' for which the VRP is being paid (the premium payment year) and the ''preceding plan year,'' at the close of which UVBs are to be measured. New section 4006(a)(3)(E)(iii) refers only to the ''plan year'' in defining UVBs. And a plan's funding target and assets—the elements of UVBs—are to be measured as of the valuation date, which need not be the close of the plan year and which for many plans (those not small enough to elect otherwise) must be the beginning of the plan year.

Accordingly, PBGC must resolve the statutory ambiguity by adopting a rule regarding the date as of which UVBs are to be measured. In view of the following considerations, PBGC proposes to require that UVBs be measured as of the valuation date in the premium payment year rather than a date in the prior plan year.

Historical data indicate that most premium filers use beginning-of-the-plan-year valuation dates for funding purposes; under PPA 2006 many of them will be required to do so. Although funding valuations don't themselves produce UVB numbers that can be used for VRP purposes, they involve the gathering of the same basic data for analysis, and the valuations are done in the same way, simply using different assumptions. It would be burdensome and impractical to require plans that must do funding valuations as of the first day of a plan year to do separate valuations as of the last day for VRP purposes.

Requiring that a funding valuation done as of the first day of the prior plan year be ''rolled forward'' to the last day of the prior plan year is likewise burdensome and impractical. Instructions for ''roll-forwards'' would necessarily be complex, especially in light of the new ''segment rate'' interest assumption under section 303(h)(2)(C) of PPA 2006 and section 4006(a)(3)(E)(iv) of ERISA. And ''rolled-forward'' valuations would tend to be inaccurate because correcting for the many changes in circumstances that can occur during the course of a year involves a significant element of estimation.

Furthermore, basing the VRP on a valuation done in the premium payment year reflects a plan's current funding status much better than basing it on a valuation done in the prior year, especially a valuation done as of the first day of the prior year. And with some changes in PBGC's premium due date and penalty rules, there will be adequate time for plans to compute premiums based on a premium payment year valuation.

Accordingly, this proposed rule requires that UVBs be measured as of the valuation date for the premium payment year (referred to as the ''UVB valuation date'') and adjusts premium due dates and penalty rules to accommodate the fact that this UVB valuation date is later (by at least a day and in some cases perhaps as much as a year) than ''the close of the preceding plan year,'' the date used under pre-PPA section 4006(a)(3)(E). (No change is proposed in the date as of which participants are counted, which the revised regulations refer to as the ''participant count date.'')

Variable-Rate Premium Computation

As noted above, UVBs under PPA 2006 are based on a plan's funding target and the market value of its assets. Under new ERISA section 303(d)(1), as set forth in section 102 of PPA 2006, ''the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.'' But new ERISA section 303(g) makes clear that the funding target is to be determined as of the valuation date, which for small

plans may not be the beginning of the plan year. PBGC thus believes that what ERISA section 303(d)(1) requires is that the benefits to be valued as of the valuation date are those accrued as of the beginning of the plan year. If the valuation date is later than the first day of the plan year, accruals after the beginning of the plan year are to be ignored.

The situation regarding assets is similar. New ERISA section 4006(a)(3)(E)(iii)(II) refers to ''the fair market value of plan assets for the plan year which are held by the plan on the valuation date.'' Under new ERISA section 303(g)(4)(B), however, plan assets as of a valuation date later than the first day of the plan year do not include contributions for the plan year made during the plan year but before the valuation date or interest thereon. PBGC interprets section 4006(a)(3)(E)(iii)(II) as incorporating this rule, as well as the corresponding rule for prior-year contributions in section 303(g)(4)(A). Thus for a valuation date later than the first day of the plan year, UVBs would reflect neither accruals nor contributions for the plan year.

In general, a plan's funding target and the value of its assets would be determined for premium purposes the same way they are for funding purposes except as new ERISA section 4006(a)(3)(E)(iii) and (iv) provides otherwise. In order to distinguish the funding target used for premium purposes from that used for funding purposes, the proposed regulation introduces the term ''premium funding target.'' In general, this means the funding target determined by taking only vested benefits into account and by using the special segment rates described in new ERISA section 4006(a)(3)(E)(iv) (the ''standard premium funding target''). Those special segment rates are ''spot rates'' (based on bond yields for a single recent month), as opposed to the 24-month average segment rates used for funding purposes.

But in certain circumstances (described below), PBGC proposes to permit filers to use an ''alternative premium funding target'' that may be less burdensome to use than the standard premium funding target. A plan's alternative premium funding target would be the vested portion of the plan's funding target under ERISA section 303(d)(1) that is used to determine the plan's minimum contribution under ERISA section 303 for the premium payment year—that is, an amount calculated using the same assumptions as are used to calculate the plan's funding target under ERISA section 303(d)(1), but based only on vested benefits, rather than all benefits.

Although instructions for post-PPA annual reports on Form 5500 series are not final, PBGC expects plans to be required to compute the vested portion of the funding target (broken down by participant category) for Form 5500 filings. PBGC also expects that the final instructions will permit or require benefits to be categorized as vested or non-vested in a manner consistent with the provisions of the proposed rule (discussed below) that explain when certain benefits are considered vested for premium purposes. The advantage to a filer of using the alternative premium funding target would be that, if the plan determined the vested portion of its funding target for purposes of the annual report (Form 5500 series) in a manner consistent with PBGC's rules, it could use the same number for premium purposes and thus avoid having to do a second calculation for premium purposes alone.

Under the proposal, the alternative premium funding target could be used where the plan made an election to do so that would be irrevocable for a period of five years. As financial markets fluctuate, the averaged rates used for the alternative premium funding target will fluctuate above and below the spot rates used for the standard premium funding target. Locking in the election for five years will keep plans from calculating the premium funding target both ways each year and using the smaller number; the reason for permitting use of the alternative premium funding target is to reduce not premiums but the burden of computing premiums. PBGC expects that normal interest rate fluctuations will make premiums computed with the alternative premium funding target—on average, over time—approximately equal to premiums calculated with the standard premium funding target. Requiring a five-year commitment to use of the alternative premium funding target will give this averaging process time to work.

Since new ERISA section 4006(a)(3)(E)(iii)(II) speaks explicitly of the ''fair market value'' of assets, PBGC concludes that it would be inconsistent with the statute to permit or require the use of the averaging process described in new ERISA section 303(g)(3)(B) or the reduction of assets by the prefunding and funding standard carryover balances described in new ERISA section 303(f)(4). (The existing premium rates regulation also provides that credit balances do not reduce assets for premium purposes.)

As noted above, however, PBGC believes that adjustments must be made for contributions as described in new ERISA section 303(g)(4). Similar adjustments are required under the current premium rates regulation. For simplicity, PBGC proposes that the adjustments be made using the effective interest rates determined for funding purposes, rather than effective interest rates computed on the basis of the premium segment rates. This will mean that the adjustments do not have to be calculated twice (once for funding purposes and again for premium purposes), and plans can use for premium purposes a figure for the value of assets that they are expected to be entering in the annual report (Form 5500 series). PBGC anticipates that the differences between funding and premium rates and the periods of time over which these rates are applied for this purpose will be small enough to justify this simplification. And as funding rates fluctuate above and below premium rates, the differences in each direction should cancel out over time.

PBGC's proposal does not include an ''alternative calculation method'' for rolling forward prior year values to the current year. The alternative calculation method (ACM) in § 4006.4(c) of the current premium rates regulation was instituted when much actuarial valuation work was done using hand calculators and tables of factors. High-speed, high-memory computers are now the norm for handling both data and mathematical computations. Actuarial valuations are thus much faster now. Furthermore, the segment rate methodology for valuing benefits does not lend itself to the kind of formulaic transformation process exemplified by the existing ACM. PBGC accordingly believes that an alternative calculation method is both unnecessary and impracticable under PPA 2006.

Due Dates and Penalty Rules

PBGC expects that most plans that are required (or choose) to do funding valuations as of the beginning of the plan year (and whose UVB valuation date is thus the first day of the premium payment year) will be able to determine their UVBs by the VRP due date currently provided for in PBGC's premium payment regulation (generally, ten and a half months after the beginning of the plan year). But there are some circumstances that can make timely determination of the VRP difficult or impossible: For example, use of a valuation date after the beginning of the plan year (applicable to small plans only) or difficulty in collecting data (e.g., because of the occurrence of unusual events during the preceding year). To deal with such circumstances,

PBGC proposes to revise its due date and penalty structure to give smaller plans more time to file and larger plans the ability to make estimated VRP filings and then correct them without penalty. The following detailed discussion of the proposed due date and penalty structure is followed by a summary table.

PBGC's current due date structure for flat- and variable-rate premiums is based on two categories of plans: those that owed premiums for 500 or more participants for the plan year preceding the premium payment year (''large'' plans) and those that did not. The new structure is based on three categories. The large-plan category remains the same. A new ''mid-size'' category will consist of plans that owed premiums for 100 or more, but fewer than 500, participants for the plan year preceding the premium payment year. A category of ''small'' plans will include all other plans. The participant count for this purpose will continue to be the prior year's count; the proposed rule provides uniform language for determining both single- and multiemployer plans' participant counts for determining due dates, eliminating a slight language difference in the existing regulation.

The 100-participant break-point between the small and mid-size categories approximates the break-point in the PPA 2006 funding rules between plans that are required to use beginning-of-the-year valuation dates under ERISA section 303(g)(2)(A) and those permitted to use another date under ERISA section 303(g)(2)(B). The correspondence with the valuation date provision is only approximate. Under the valuation date provision, PPA 2006 counts participants on each day of a plan year and aggregates plans within controlled groups; under its premium due date rules, PBGC counts participants in one plan on one day. Furthermore, PPA 2006 funding rules look back to the plan year preceding the valuation year; the PBGC participant count for the plan year preceding the premium payment year is typically as of the last day of the plan year before that. Accordingly, there may be plans that are eligible to elect valuation dates other than the first day of the plan year but that do not fall into PBGC's new small-plan category. But most plans that use valuation dates other than the first day of the plan year are expected to be ''small'' under the new due date structure, and there is enough flexibility in the due date rules for large and mid-size plans to make premium filing manageable in most cases even for plans with valuation dates after the beginning of the plan year. In unusual cases, where a plan with a valuation date late in the year finds itself in the large or mid-size category, PBGC has authority to waive late premium penalties.

Small Plans

For plans in the ''small'' category, PBGC proposes to make all premiums due on the last day of the sixteenth month that begins on or after the first day of the premium payment year (for calendar-year plans, April 30 of the year following the premium payment year). This will give any small plan at least four months to determine UVBs.

The same due date will apply to both variable- and flat-rate premiums. While there is no reason these small plans cannot determine the flat-rate premium by the current due date (the 15th day of the tenth month that begins on or after the first day of the premium payment year), PBGC wants to avoid requiring them to make two filings per year. And for simplicity, PBGC is making no distinction for due date purposes between single-employer plans that pay the VRP and single-employer (and multiemployer) plans that do not. Small single-employer plans that qualify for an exemption from the VRP and small multiemployer plans (which are not subject to the VRP) will have the same deferred due date as small single-employer plans that owe a VRP.

Mid-Size Plans

For mid-size plans, PBGC proposes to retain the current premium due date—the 15th day of the tenth month that begins on or after the first day of the premium payment year (October 15th for calendar-year plans)—for both flat- and variable-rate premiums. With rare exceptions, these plans will perform valuations as of the first day of the premium payment year, and in most cases should be able to calculate UVBs by the current due date. However, in recognition of the possibility that circumstances might make a final UVB determination by the due date difficult or impossible, PBGC proposes to permit estimated VRP filings and to provide a penalty-free ''true-up'' period to correct an erroneous VRP estimate.

Under this provision, the VRP penalty would be waived for a period of time after the VRP due date if, by the VRP due date, the plan administrator submits an estimate of the VRP that meets certain requirements and pays the estimated amount. The waiver of the penalty would cover the period from the VRP due date until the small-plan due date or, if earlier, the filing of the final VRP. Interest would not be suspended; if the VRP estimate fell short of the correct amount, interest would accrue on the amount of the underpayment from the date when the payment was due to the date the shortfall was paid, just as with the existing ''safe harbor'' rule for large plans'' flat-rate premium payments.

The requirements for the VRP estimate would be that it be based on (1) a final determination of the market value of the plan's assets and (2) a reasonable estimate of the plan's premium funding target for the premium payment year that takes into account the most current data available to the plan's enrolled actuary and is determined in accordance with generally accepted actuarial principles and practices. The estimate of the premium funding target would have to be certified by the enrolled actuary and, like other premium information filed with PBGC, would be subject to audit. PBGC needs a good estimate of its VRP income for inclusion in its annual report, which is prepared during October (because its fiscal year ends September 30), when most plans (those with calendar plan years) submit VRP filings. Thus, it is important to have assurance that the estimate of the premium funding target has been prepared in good faith.

Since this penalty relief is based on the plan's reporting a final figure for the value of assets by the VRP due date, the relief would be lost if there were a mistake in the assets figure so reported, whether the mistaken figure was lower or higher than the true figure. PBGC would consider a request for an appropriate penalty waiver in such a situation and in acting on the request would consider such facts and circumstances as the reason for the mistake, whether assets were over- or understated, and, if assets were overstated, the extent of the overstatement.

Large Plans

The due date and penalty structure for ''large'' plans would be the same as for ''mid-size'' plans except that the early due date for the flat-rate premium under the existing regulation would be retained, along with the related ''safe harbor'' penalty rules. However, there would be a change in the ''safe harbor'' rules to accommodate the unlikely event that a plan might be in the small-plan category for one year but in the large-plan category for the next year. Under §§ 4007.8(f) and (g)(2)(ii) of the existing premium payment regulation, a plan may be entitled to safe harbor relief if its flat-rate filing is consistent with its reported participant count for the prior plan year, even if the reported count is later determined to be wrong. But under

the new rules, a plan that is small for one year and large for the next year would not have to report its participant count for the first year until after the flat-rate due date for the second year. Thus, to get the benefit of these special safe-harbor rules, a plan in such circumstances would have to make its final filing for the first year two months before it was due. To alleviate this problem, PBGC proposes to provide safe-harbor relief for any plan whose flat-rate due date for the plan year preceding the premium payment year is later than the large-plan flat-rate due date for the premium payment year.

Due Date Table

The following table shows the relevant premium due dates for small, mid-size, and large calendar year plans (as described above) for the 2008 premium payment year:

	Small plans (under 100 participants)	Mid-size plans (100–499 participants)	Large plans (500 or more participants)
Flat-rate premium due	April 30, 2009	October 15, 2008	February 29, 2008 See flat-rate premium safe harbor rules.
Flat-rate premium reconciliation due	N/A	N/A	October 15, 2008.
Variable-rate premium due	April 30, 2009	October 15, 2008 Estimate may be filed and paid. See rules on correcting VRP without penalty.	October 15, 2008 Estimate may be filed and paid. See rules on correcting VRP without penalty.
Latest VRP penalty starting date. If certain conditions are met, penalty is waived until this date or, if earlier, the date the final VRP is filed.	N/A	April 30, 2009	April 30, 2009.

Special Variable-Rate Premium Rules

The existing premium rates regulation includes a number of special ''exemption'' or ''relief'' rules for VRP filers. One of these—the full-funding limit exemption, which was created by statute—has been eliminated by PPA 2006. Three others—created by PBGC regulation in 1988—have lost their justification, as explained below, and PBGC proposes to eliminate them as well. PBGC is also introducing two new ''relief'' rules.

The three regulatory special rules to be eliminated are (1) the rule that a plan with fewer than 500 participants for the premium payment year is exempt from reporting its VRP information if the plan has no UVBs (the ''small well-funded plan rule''), (2) the rule that a plan with 500 or more participants may report (and compute its VRP on the basis of) accrued rather than vested benefits (the ''large plan accrued benefit rule''), and (3) the rule that a plan may value benefits using the funding interest rate rather than the variable-rate premium interest rate if the funding rate is less than the premium rate (the ''funding interest rate rule''). All three represent compromises between the need for accuracy in the determination of the VRP and the reporting of VRP data on the one hand and the need to reduce the burden of compliance on the other.

PBGC needs accurate data about UVBs and assets—now as in 1988—to verify the correctness of the reported VRP and for financial projections. But whereas the cost of determining this information 20 years ago could be very significant, because much actuarial valuation work was done using hand calculators and tables of factors, valuations are now computerized and thus cost less. PBGC's need for accurate data now outweighs the burden of determining and reporting the data. The elimination of these three special rules reflects that change in the balance between need and burden. Furthermore, both the ''large plan accrued benefit rule'' and the ''funding interest rate rule'' overstate UVBs and are used by very few plans—fewer than three dozen plans used each of these two special rules for the 2004 filing year (the last year for which data are available).

In addition, one of the two new ''relief'' rules that PBGC is introducing—the new alternative premium funding target provision discussed above—would provide relief for filers that might otherwise have used any of these three special rules. The alternative premium funding target provision permits the use of funding rates for premium purposes (like the ''funding interest rate rule'') without the need for a comparison of rates (albeit with a requirement for a five-year commitment). And by using the alternative premium funding target provision, plans that might have used the ''large plan accrued benefit rule'' or the ''small well-funded plan rule'' may be able to base premium reporting on figures that are computed for and included in the annual report (Form 5500 series).

PBGC's second new ''relief'' rule—in addition to the alternative premium funding target provision—is a reporting relief provision for certain small-employer plans. Section 405 of PPA 2006 caps the VRP for certain plans of small employers, a provision that is the subject of another PBGC rulemaking proceeding. This proposed rule would exempt plans that qualify for the VRP cap and pay the full amount of the cap from determining or reporting UVBs.

Meaning of ''Vested''

As discussed above, the determination of UVBs—under pre-PPA law as well as under PPA 2006—requires that only vested benefits be taken into account. PBGC believes that there is some uncertainty among pension practitioners as to the meaning of the term ''vested'' as used in ERISA section 4006(a)(3)(E). With a view to reducing uncertainty and promoting consistency in the VRP determination process, PBGC proposes to explain—for premium purposes only—when certain benefits are considered vested.

The proposal would specify two circumstances that do not prevent a benefit of a participant from being vested for premium purposes. One circumstance is that the benefit is not protected under Code section 411(d)(6) and thus may be eliminated or reduced by the adoption of a plan amendment or by the occurrence of a condition or event (such as a change in marital status). PBGC considers such a benefit to be vested (if the other conditions of entitlement have been met) so long as the benefit has not actually been eliminated or reduced. The other circumstance—applicable to certain benefits payable upon a participant's death—is that the participant is living. The benefits to which this would apply are (1) a qualified pre-retirement survivor annuity, (2) a post-retirement survivor annuity such as the annuity paid after a participant's death under a joint and survivor or certain and continuous option, and (3) a benefit that returns a participant's accumulated

mandatory employee contributions. PBGC considers such benefits to be vested (if the other conditions of entitlement have been met) notwithstanding that the participant is alive.

Recordkeeping and Audits

PBGC proposes to clarify and strengthen its rules on recordkeeping and audits. Most of the changes simply reflect existing recordkeeping and audit practices.

In describing the premium records to be kept, the current premium payment regulation mentions explicitly only those prepared by enrolled actuaries and insurance carriers. The proposal broadens this to include plan sponsors and employers required to contribute to a plan for their employees and clarifies, with a list of examples of relevant records, that PBGC interprets the term ''records'' broadly. Similarly, the proposal refers explicitly to records supporting the amount of premiums that were *required* to be paid and the premium-related information that was *required* to be reported (rather than just what was actually paid or reported). Where a premium or premium-related information is determined through the use of a manual or automated system, the proposal allows PBGC to require that the operation of the system be demonstrated so that its effectiveness, and the reliability of the results produced, can be assessed. In addition, in situations where plan records are deficient, the proposal broadens the categories of data on which PBGC may rely to establish the amount of premiums due to include not just participant count data but UVB data.

The proposal also makes clear that the 45 days permitted for producing records under § 4007.10(c) applies to records sent to PBGC, not to records audited on-site (which PBGC expects to be produced much more promptly). And PBGC proposes to broaden the circumstances in which it can require faster submission of records. The existing regulation limits such circumstances to those where collection of money may be jeopardized. This would be changed to authorize shorter response times where the interests of PBGC may be prejudiced by delay—such as where PBGC has reason to fear that records might be destroyed or manipulated.

Miscellaneous Provisions

Plans Not Immediately Subject to New Funding Rules

Sections 104, 105, and 106 of PPA 2006 defer the effective date of the funding amendments for certain plans described in those sections, which in general deal with plans of cooperatives, plans affected by settlement agreements with PBGC, and plans of government contractors. Section 402 of PPA 2006 applies special funding rules to certain plans of commercial passenger airlines and airline caterers. None of these provisions affects the applicability of the amendments to ERISA section 4006 regarding the determination of the VRP. The proposed rule provides explicitly that plans in this small group must determine UVBs in the same manner as all other plans.

New and Newly Covered Plans

The proposed rule would eliminate confusing language in the existing regulations that raised questions about the determination of due dates, participant count dates, and premium proration for new and newly covered plans in certain circumstances. The new language would make clear that the first day of a new plan's first plan year for premium purposes is the effective date of the plan. This change will obviate the need for plan administrators to choose between the effective date and the adoption date as the first day of the plan year for premium filing.

Electronic Filing Requirement

Effective July 1, 2006, PBGC amended its regulations to require that annual premium filings be made electronically (71 FR 31077, June 1, 2006). (Exemptions from the e-filing requirement may be granted for good cause in appropriate circumstances.) In order for PBGC's premium processing systems to work effectively and efficiently, information must be received in an electronic format compatible with those systems; the burden of reformatting information received on paper or in other incompatible formats is significant, and the reformatting process gives rise to data errors. PBGC therefore proposes to provide explicitly in the premium payment regulation that, in the absence of an exemption, premium filing on paper or in any other manner other than the prescribed electronic filing method does not satisfy the requirement to file. Thus, a penalty under ERISA section 4071 could be assessed for the period from the due date of the premium filing until it was made electronically, even if a timely paper filing was made.

Billing ''Grace Period'' for Interest

PBGC proposes to consolidate paragraphs (b) and (c) of § 4007.7, both of which deal with the ''grace period'' for interest on premium underpayments where a bill is paid within 30 days. No substantive change is intended.

VRP Rate

ERISA section 4006(a)(3)(E)(ii) sets the variable-rate premium at $9 for each $1,000 (or fraction thereof) of UVBs. Section 4006.3(b) of the existing premium rates regulation omits the phrase ''(or fraction thereof).'' The requirement is made clear in PBGC's premium instructions, but PBGC proposes to add this phrase to the regulatory text.

Pre-1996 Penalty Accrual Rules

PBGC proposes to eliminate the pre-1996 penalty accrual rules as anachronistic.

Other Changes

The proposal includes a number of clarifying and editorial changes.

Applicability

The regulatory changes made by this rule would apply to plan years beginning after 2007.

Compliance With Rulemaking Guidelines

E.O. 12866

The PBGC has determined, in consultation with the Office of Management and Budget, that this rule is a ''significant regulatory action'' under Executive Order 12866. The Office of Management and Budget has therefore reviewed this notice under E.O. 12866. Pursuant to section 1(b)(1) of E.O. 12866 (as amended by E.O. 13422), PBGC identifies the following specific problems that warrant this agency

- There is ambiguity in ERISA section 4006(a)(3)(E) regarding the date as of which UVBs are to be measured. This problem is significant because, unless the statutory ambiguity is resolved, it will be unclear what date UVBs are to be measured as of.
- The statute lacks clarity and specificity in describing how UVBs are calculated. This problem is significant because, unless clarity and specificity are provided, it will be unclear how to compute UVBs.
- The statute does not expressly provide for an alternative premium funding target as described above. This problem is significant because the standard premium funding target provided for in the statute is more burdensome to use than the alternative premium funding target described above without generating significantly different premium revenue than the less burdensome alternative premium funding target.

• PBGC's existing premium due date and penalty rules do not accord well with the new rules for the date as of which and manner in which UVBs are to be determined. This problem is significant because, without changes in the due date and penalty rules, some plans may experience difficulties in paying premiums timely and without late payment penalties.

• Some existing PBGC VRP relief rules are anachronistic and some new relief provisions are warranted by statutory changes. This problem is significant because the outmoded relief rules detract from accuracy in determining the VRP and deprive PBGC of VRP data without significantly reducing burden, while statutory changes have made it possible to grant new relief without significant adverse consequences for the PBGC insurance program.

• There is uncertainty as to the meaning of the term ''vested'' that is used in the statute to describe benefits taken into account in determining the VRP. This problem is significant because, without improved clarity in the meaning of ''vested'' as applied to VRP determinations, those determinations may be inconsistent.

• PBGC's current recordkeeping and audit rules do not match current recordkeeping and audit practices in scope and specificity, and provide relatively narrow circumstances in which PBGC may require expedited submission of records. This problem is significant because inadequate recordkeeping and audit rules could compromise PBGC's ability to enforce the premium rules in the statute and PBGC's regulations thereunder.

• PBGC's existing premium payment regulation does not provide explicitly that, in the absence of an exemption, premium filing on paper or in any other manner other than the prescribed electronic filing method does not satisfy the requirement to file. This problem is significant because, in the absence of an explicit statement, filers might believe they had a basis for taking the position that penalties for late filing would not apply if they timely filed on paper or in some other non-approved manner.

Regulatory Flexibility Act

PBGC certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the amendments in this proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), sections 603 and 604 do not apply.

Most of the amendments would implement statutory changes made by Congress. They would provide procedures for calculating, substantiating, and paying the premiums prescribed by statute and impose no significant burden beyond the burden imposed by statute. To the extent that this rule would make changes that are outside the explicit scope of the statute, they would affect primarily the requirement to perform and manner of performing VRP calculations. When the VRP provisions were added to PBGC's regulations nearly 20 years ago, these calculations were mostly done using actuarial tables and hand calculators. Today they are almost universally done using high-memory, high-speed computers. The VRP calculations parallel funding calculations that must be done independently of PBGC premium requirements. Thus, the VRP calculations can be done for the most part by plugging in different parameters (such as interest rates) to computer programs that are used for funding purposes. The incremental cost of such calculations for entities of any size is insignificant. Not including a computation option like the existing alternative computation method (ACM) in the new rules would not significantly affect compliance costs because such an option would itself be complex and thus burdensome to use and because a simplified computation method is no longer needed in the current environment of computerized actuarial computations.

Changes that would tend to increase compliance costs (*e.g.*, elimination of the VRP exemption for well-funded small plans) would be offset by changes tending to reduce compliance costs (*e.g.*, the introduction of the reporting exemption for plans of small employers paying the maximum capped VRP).

The shift from prior-year to current-year data and the deferral of the due date for small plans (those with fewer than 100 participants) should not affect the cost of compliance. Under existing rules, UVBs are determined as of the end of the prior year (or in some cases the beginning of the current year) and the VRP is due 9½ months later. Under the new rules, UVBs would be determined as of the UVB valuation date, which for most small plans may be any day in the current year. For plans that choose a valuation date at the beginning of the year, the VRP would now be due 16 months later. For those that choose a valuation date at the end of the year, the VRP would now be due 4 months later. For a plan that chooses a mid-year valuation date, the VRP would be due 10 months later, providing about the same time for data-gathering and computations as under the existing rules. But even a 4-month period between the valuation date and the due date should be adequate for the data-gathering and UVB computations of small plans, and the change in timing should not affect the cost of compliance.

PBGC believes that the changes to the recordkeeping requirements in general simply codify existing practices. The changes to the audit rules will not affect a significant number of plans of any size.

Paperwork Reduction Act

PBGC is submitting the information requirements under this proposed rule to the Office of Management and Budget for review and approval under the Paperwork Reduction Act. The OMB control number for this collection of information is 1212–0009. Copies of PBGC's request may be obtained free of charge by contacting the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street, NW., Washington, DC 20005, 202–326–4040.

PBGC is proposing the following changes to the information requirements under the premium rates and premium payment regulations (except for 2008 estimated flat-rate premium filings, as noted below):

• Filers will be required to include in the addresses of the plan sponsor and plan administrator the countries where the addresses are located (if other than the United States).

• Filers will no longer be required to report coverage status.

• Filers will be required to provide an e-mail address for the plan contact.

• Filers will no longer be required to provide information on participant notices under ERISA section 4011 (that requirement having been eliminated by PPA 2006).

• Filers will be required to report if they qualify for premium proration (for a short plan year) and if so, to report the number of months in the proration period. Proration will be reported separately from credits. (This change will not apply to 2008 estimated flat-rate premium filings.)

• Filers will be required to report plan size (small, mid-size, or large) based on the prior year's participant count (or report that the plan is new).

• Filers will have an opportunity to make alternative premium funding target elections as part of the premium filing.

• Filers will be required to report the participant count date.

• Most existing VRP information items will be eliminated in connection

with the implementation of the new VRP rules. Items retained will be the identification of any applicable VRP exemption and the amount of UVBs.

- New VRP data required will be qualification for the VRP cap for certain plans of small employers, the UVB valuation date, the premium funding target as of the UVB valuation date, the premium funding target method (standard or alternative), whether the reported premium funding target is an estimate, the segment rates used to compute the premium funding target (or indication that the full yield curve was used), the market value of assets as of the UVB valuation date, the (unprorated) VRP cap (for plans eligible for the cap), and the (unprorated) uncapped VRP (for plans not eligible for the cap).
- For a final filing, filers will be required to report the date and type of event that results in the cessation of the filing obligation.
- The existing item on transfers from disappearing plans will be replaced by two new items: Information about transfers from other plans (whether disappearing or not) and information about transfers to other plans. (This change will not apply to 2008 estimated flat-rate premium filings.)
- For frozen plans, filers will be required to identify the type of freeze and its effective date.
- For amended filings, filers will be required to report any change in the beginning and ending dates of the plan year being reported and any change in the plan identifying numbers being reported from those in the original filing.

PBGC needs this information to identify the plan for which premiums are paid to PBGC, to verify the determination of the premium, and to help the PBGC determine the magnitude of its exposure in the event of plan termination.

PBGC estimates that it will receive annual premium filings from about 28,409 plan administrators each year and that the total annual burden of the collection of information will be about 9,002 hours and $47,037,645.

Comments on the paperwork provisions under this proposed rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. Although comments may be submitted through July 30, 2007, the Office of Management and Budget requests that comments be received on or before July 2, 2007 to ensure their consideration. Comments may address (among other things)—

- Whether the proposed collection of information is needed for the proper performance of PBGC's functions and will have practical utility;
- The accuracy of PBGC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancement of the quality, utility, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

List of Subjects

29 CFR Part 4006

Pension insurance, Pensions.

29 CFR Part 4007

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons given above, PBGC proposes to amend 29 CFR parts 4006 and 4007 as follows.

PART 4006—PREMIUM RATES

1. The authority citation for part 4006 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307.

2. In § 4006.2, the definition of ''short plan year'' is revised, and four new definitions are added, to read as follows:

§ 4006.2 Definitions.

* * * * *

Participant count of a plan for a plan year means the number of participants in the plan on the participant count date of the plan for the plan year.

Participant count date of a plan for a plan year means the date provided for in § 4006.5(c), (d), or (e) as applicable.

Premium funding target has the meaning described in § 4006.4(b)(1).

* * * * *

Short plan year means a plan year of coverage that is shorter than a normal plan year.

UVB valuation date of a plan for a plan year means the plan's funding valuation date for the plan year determined in accordance with ERISA section 303(g)(2).

3. In § 4006.3:

a. Paragraph (a) introductory text is amended by removing the words ''last day of the plan year preceding the premium payment year,'' and adding in their place the words ''participant count date''.

b. Paragraph (b) is amended by removing the words ''$1,000 of a single-employer plan's unfunded vested benefits'' and adding in their place the words ''$1,000 (or fraction thereof) of a single-employer plan's unfunded vested benefits for the premium payment year''.

4. Section 4006.4 is revised to read as follows:

§ 4006.4 Determination of unfunded vested benefits.

(a) *In general.* Except as provided in the exemptions and special rules under § 4006.5, the amount of a plan's unfunded vested benefits for the premium payment year is the excess (if any) of the plan's premium funding target for the premium payment year (determined under paragraph (b) of this section) over the fair market value of the plan's assets for the premium payment year (determined under paragraph (c) of this section). Unfunded vested benefits for the premium payment year must be determined as of the plan's UVB valuation date for the premium payment year, based on the plan provisions and the plan's population as of that date. The determination must be made in a manner consistent with generally accepted actuarial principles and practices.

(b) *Premium funding target*—(1) In general. A plan's premium funding target is its standard premium funding target under paragraph (b)(2) of this section or, if an election to use the alternative premium funding target under § 4006.5(g) is in effect, its alternative premium funding target.

(2) *Standard premium funding target.* A plan's standard premium funding target under this section is the plan's funding target as determined under ERISA section 303(d) (or 303(i), if applicable) for the premium payment year using the same assumptions that are used for funding purposes, except that—

(i) Only vested benefits are taken into account, and

(ii) The interest rates to be used are the segment rates for the month preceding the month in which the premium payment year begins that are determined in accordance with ERISA section 4006(a)(3)(E)(iv). These are the rates that would be determined under ERISA section 303(h)(2)(C) if ERISA section 303(h)(2)(D) were applied by using the monthly yields for the month preceding the month in which the premium payment year begins on

investment grade corporate bonds with varying maturities and in the top 3 quality levels rather than the average of such yields for a 24-month period.

(c) *Value of assets.* The fair market value of a plan's assets under this section is determined in the same manner as for funding purposes under ERISA section 303(g)(3) and (4), except that averaging as described in ERISA section 303(g)(3)(B) must not be used and prior year contributions are included only to the extent received by the plan by the date of a premium filing. Contribution receipts must be accounted for as described in ERISA section 303(g)(4), using effective interest rates determined under ERISA section 303(h)(2)(A) (not rates that could be determined based on the segment rates described in paragraph (b)(2) of this section).

(d) *''Vested.''* For purposes of ERISA section 4006(a)(3)(E), this part, and part 4007 of this chapter, a benefit otherwise vested does not fail to be vested merely because of the following circumstances:

(1) The circumstance that the participant is living, in the case of the following death benefits:

(i) A qualified pre-retirement survivor annuity (as described in ERISA section 205(e)),

(ii) A post-retirement survivor annuity that pays some or all of the participant's benefit amount for a fixed or contingent period (such as a joint and survivor annuity or a certain and continuous annuity), and

(iii) A benefit that returns the participant's accumulated mandatory employee contributions (as described in ERISA section 204(c)(2)(C)).

(2) The circumstance that the benefit may be eliminated or reduced by the adoption of a plan amendment or by the occurrence of a condition or event (such as a change in marital status).

(e) *Plans for which new funding rules are not immediately effective.* In the case of a plan to which the funding rules as amended by subtitles A and B of Title I of the Pension Protection Act of 2006 do not apply for a plan year, unfunded vested benefits must be determined for that plan year as if those funding rules did apply.

5. In § 4006.5:

a. Paragraph (a) introductory text is amended by removing the words ''paragraphs (a)(1)–(a)(5)'' and adding in their place the words ''paragraphs (a)(1)–(a)(3)''; and by removing the words ''determine its unfunded vested benefits'' and adding in their place the words ''determine or report its unfunded vested benefits''.

b. Paragraphs (a)(1) and (a)(5) are removed.

c. Paragraphs (a)(2), (a)(3), and (a)(4) are redesignated as paragraphs (a)(1), (a)(2), and (a)(3) respectively.

d. Redesignated paragraph (a)(1) is amended by removing the words ''*benefit liabilities*'' from the heading and adding in their place the word ''participants''; by removing the word ''did'' and adding in its place the word ''does''; and by removing the words ''last day of the plan year preceding the premium payment year'' and adding in their place the words ''UVB valuation date''.

e. Redesignated paragraph (a)(2) is amended by removing the figures ''412(i)'' where they appear once in the heading and once in the body of the paragraph and adding in their place the figures ''412(e)(3)''; by removing the word ''was'' and adding in its place the word ''is''; and by removing the words ''last day of the plan year preceding the premium payment year'' and adding in their place the words ''UVB valuation date''.

f. Redesignated paragraph (a)(3)(ii) is amended by removing the words ''last day of the plan year preceding the premium payment year'' and adding in their place the words ''UVB valuation date''.

g. The heading of paragraph (e) is amended by removing the words ''*Special determination date rule for*'' and adding in their place the words ''*Participant count date;*''.

h. Paragraph (e)(2) is amended by removing the words ''paragraph (e)(2) if'' and adding in their place the words ''paragraph (e)(2) for a plan year if''.

i. Paragraph (e)(2)(ii) is amended by removing the words ''on the first day of the plan's premium payment year'' and adding in their place the words ''at the beginning of the plan year''.

j. Paragraph (f) introductory text is amended by removing the words ''year as described'' and adding in their place the words ''year described''.

k. Paragraphs (b), (c), (d), (e)(1), and (f)(1) are revised, and paragraph (g) is added, to read as follows:

§ 4006.5 Exemptions and special rules.

* * * * *

(b) *Reporting exemption for plans paying capped variable-rate premium.* A plan that qualifies for the variable-rate premium cap described in ERISA section 4006(a)(3)(H) is not required to determine or report its unfunded vested benefits under § 4006.4 if it reports that it qualifies for the cap and pays a variable-rate premium equal to the amount of the cap.

(c) *Participant count date; in general.* Except as provided in paragraphs (d) and (e) of this section, the participant count date of a plan for a plan year is the last day of the prior plan year.

(d) *Participant count date; new and newly-covered plans.* The participant count date of a new plan or a newly-covered plan for a plan year is the first day of the plan year. For this purpose, a new plan's first plan year begins on the plan's effective date.

(e) *Participant count date; certain mergers and spinoffs.* (1) The participant count date of a plan described in paragraph (e)(2) of this section for a plan year is the first day of the plan year.

* * * * *

(f) *Proration for certain short plan years.* * * *

(1) *New or newly covered plan.* A new plan becomes effective less than one full year before the beginning of its second plan year, or a newly-covered plan becomes covered on a date other than the first day of its plan year. (Cessation of coverage before the end of a plan year does not give rise to proration under this section.)

* * * * *

(g) *Alternative premium funding target.* A plan's alternative premium funding target is the vested portion of the plan's funding target under ERISA section 303(d)(1) that is used to determine the plan's minimum contribution under ERISA section 303 for the premium payment year, that is, the amount that would be determined under ERISA section 303(d)(1) if only vested benefits were taken into account. A plan may elect to compute unfunded vested benefits using the alternative premium funding target instead of the standard premium funding target described in § 4006.4(b)(2), and may revoke such an election, in accordance with the provisions of this paragraph (g). A plan must compute its unfunded vested benefits using the alternative premium funding target instead of the standard premium funding target described in § 4006.4(b)(2) if an election under this paragraph (g) to use the alternative premium funding target is in effect for the premium payment year.

(1) An election under this paragraph (g) to use the alternative premium funding target must specify the first plan year to which it applies and must be filed before the end of that plan year. The first plan year to which the election applies must begin at least five years after the first plan year to which a revocation of a prior election applied. The election will be effective—

(i) For the plan year for which made and for all plan years that begin less than five years thereafter, and

(ii) For all succeeding plan years until the first plan year to which a revocation of the election applies.

(2) A revocation of an election under this paragraph (g) to use the alternative premium funding target must specify the first plan year to which it applies and must be filed before the end of that plan year. The first plan year to which the revocation applies must begin at least five years after the first plan year to which the election applied.

6. In paragraph (c) of § 4006.6:

a. Example 1 is amended by removing the words ''July 1, 2000'' and adding in their place the words ''July 1, 2008''; by removing the words ''December 31, 2000'' where they appear twice and adding in their place the words ''December 31, 2008''; by removing the words ''snapshot date'' and adding in their place the words ''participant count date''; and by removing the words ''2001 premium'' where they appear twice and adding in their place the words ''2009 premium''.

b. Example 2 is amended by removing the words ''February 1, 2002'' where they appear twice and adding in their place the words ''February 1, 2010''; by removing the words ''July 1, 2000'' and adding in their place the words ''July 1, 2008''; by removing the words ''July 1, 2001'' and adding in their place the words ''July 1, 2009''; by removing the words ''December 31, 2002'' and adding in their place the words ''December 31, 2010''; by removing the words ''snapshot date'' and adding in their place the words ''participant count date''; and by removing the words ''2003 premium'' where they appear twice and adding in their place the words ''2011 premium''.

c. Example 3 is amended by removing the words ''January 1, 2004'' and adding in their place the words ''January 1, 2012''; by removing the words ''December 30, 2005'' where they appear twice and adding in their place the words ''December 30, 2013''; by removing the words ''January 9, 2006'' and adding in their place the words ''January 9, 2014''; by removing the words ''December 31, 2005'' and adding in their place the words ''December 31, 2013''; by removing the words ''snapshot date'' and adding in their place the words ''participant count date''; and by removing the words ''2006 premium'' where they appear twice and adding in their place the words ''2014 premium''.

d. Example 4 is amended by removing the words ''January 1, 2006'' and adding in their place the words ''January 1, 2014''; by removing the words ''December 31, 2005'' and adding in their place the words ''December 31, 2013''; and by removing the words ''2006 premium'' and adding in their place the words ''2014 premium''.

PART 4007—PAYMENT OF PREMIUMS

7. The authority citation for part 4007 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1303(a), 1306, 1307.

8. In § 4007.2:

a. Paragraph (a) is amended by removing the word ''insurer,''; and by removing the words ''multiemployer plan,''.

b. Paragraph (b) is amended by removing the words ''participant, premium payment year'' and adding in their place the words ''participant, participant count, premium funding target, premium payment year''.

9. In § 4007.3:

a. The first three sentences (ending with the words ''prescribed in the instructions.'') of the text of § 4007.3 are designated as paragraph (a), and the remainder of the text (beginning with the words ''Information must be filed electronically'') is designated as paragraph (b).

b. Newly designated paragraph (a) is amended by adding the heading ''In general.''; and by removing the words ''estimation, declaration, reconciliation, and payment'' and adding in their place the words ''estimation, determination, declaration, and payment''.

c. Newly designated paragraph (b) is amended by adding the heading ''Electronic filing.''; by removing the words ''requirement to file electronically does not apply'' and adding in their place the words ''requirement to file electronically applies to all estimated and final flat-rate and variable-rate premium filings (including amended filings) but does not apply''; and by adding two new sentences to the end of the paragraph to read as follows:

§ 4007.3 Filing requirement; method of filing.

* * * * *

(b) *Electronic filing.* * * * Unless an exemption applies, filing on paper or in any other manner other than by a prescribed electronic filing method does not satisfy the requirement to file. Failure to file electronically as required is subject to penalty under ERISA section 4071.

10. In § 4007.7, paragraph (c) is removed, and paragraph (b) is revised to read as follows:

§ 4007.7 Late payment interest charges.

* * * * *

(b) With respect to any PBGC bill for a premium underpayment and/or interest thereon, interest will accrue only until the date of the bill, provided the premium underpayment and interest billed are paid within 30 days after the date of the bill.

11. In § 4007.8:

a. Paragraph (a) introductory text is amended by adding at the end of the paragraph the words ''The penalty rate is—''.

b. Paragraph (a)(1) introductory text and paragraph (a)(2) are removed, and paragraphs (a)(1)(i) and (a)(1)(ii) are redesignated as paragraphs (a)(1) and (a)(2) respectively.

c. Paragraph (f) is amended by removing the figures ''§ 4007.11(a)(2)(iii)'' and adding in their place the figures ''§ 4007.11(a)(3)(iii)''; by removing the words ''filing is due if fewer'' and adding in their place the words ''filing is due if either—Fewer''; by removing the period at the end of paragraph (f) and adding in its place '', or''; and by designating as paragraph (f)(1) the portion of the text of paragraph (f) that begins with the words ''Fewer than 500''.

d. Paragraph (i) is amended by removing the figures ''§ 4007.11(a)(2)(iii)'' and adding in their place the figures ''§ 4007.11(a)(3)(iii)''.

e. New paragraphs (f)(2) and (j) are added to read as follows:

§ 4007.8 Late payment penalty charges.

* * * * *

(f) Safe-harbor relief for certain large plans. * * *

* * * * *

(2) The due date for paying the flat-rate premium for the plan year preceding the premium payment year is later than the due date for paying the flat-rate premium for the premium payment year.

* * * * *

(j) *Variable-rate premium penalty relief.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(ii) or (a)(3)(iv). PBGC will waive the penalty on any underpayment of the variable-rate premium for the period that ends on the earlier of the date the reconciliation filing is due or the date the reconciliation filing is made if, by the date the variable-rate premium for the premium payment year is due under § 4007.11(a)(2)(i) or (a)(3)(ii)—

(1) The plan administrator reports—

(i) The fair market value of the plan's assets for the premium payment year, and

(ii) An estimate of the plan's premium funding target for the premium payment year that is certified by an enrolled actuary to be a reasonable estimate that

takes into account the most current data available to the enrolled actuary and that has been determined in accordance with generally accepted actuarial principles and practices; and

(2) The plan administrator pays at least the amount of variable-rate premium determined from the value of assets and estimated premium funding target so reported.

12. In § 4007.10:

a. Paragraph (c)(3) is amended by removing the words ''that collection of unpaid premiums (or any associated interest or penalties) would otherwise be jeopardized'' and adding in their place the words ''that the interests of PBGC may be prejudiced by a delay in the receipt of the information (*e.g.*, where collection of unpaid premiums (or any associated interest or penalties) would otherwise be jeopardized)''.

b. Paragraphs (a)(1), (b), and (c)(1) are revised, and paragraph (a)(3) is added, to read as follows:

§ 4007.10 Recordkeeping; audits; disclosure of information.

(a) *Retention of records to support premium payments*—(1) *In general.* The plan administrator must retain, for a period of six years after the premium due date, all plan records that are necessary to establish, support, and validate the amount of any premium required to be paid and any information required to be reported (''premium-related information'') under this part and part 4006 of this chapter and under PBGC's premium filing instructions. Records that must be retained pursuant to this paragraph include, but are not limited to, records that establish the number of plan participants and that support and demonstrate the calculation of unfunded vested benefits.

* * * * *

(3) *Records* (i) Records that must be retained pursuant to paragraph (a)(1) of this section include, but are not limited to, records prepared by the plan administrator, a plan sponsor, an employer required to contribute to the plan with respect to its employees, an enrolled actuary performing services for the plan, or an insurance carrier issuing any contract to pay benefits under the plan.

(ii) For purposes of this section, ''records'' include, but are not limited to, plan documents; participant data records; personnel and payroll records; actuarial tables, worksheets, and reports; records of computations, projections, and estimates; benefit statements, disclosures, and applications; financial and tax records; insurance contracts; records of plan procedures and practices; and any other records, whether in written, electronic, or other format, that are relevant to the determination of the amount of any premium required to be paid or any premium-related information required to be reported.

(iii) When a record to be produced for PBGC inspection and copying exists in more than one format, it must be produced in the format specified by PBGC.

(b) *PBGC audit*—(1) *In general.* In order to determine the correctness of any premium paid or premium-related information reported or to determine the amount of any premium required to be paid or any premium-related information required to be reported, PBGC may—

(i) Audit any premium filing,

(ii) Inspect and copy any records that are relevant to the determination of the amount of any premium required to be paid and any premium-related information required to be reported, including (without limitation) the records described in paragraph (a) of this section, and

(iii) Require disclosure of any manual or automated system used to determine any premium paid or premium-related information reported, and demonstration of its operation in order to permit PBGC to determine the effectiveness of the system and the reliability of information produced by the system.

(2) *Deficiencies found on audit.* If, upon audit, the PBGC determines that a premium due under this part was underpaid, late payment interest and penalty charges will apply as provided for in this part. If, upon audit, PBGC determines that required information was not timely and accurately reported, a penalty may be assessed under ERISA section 4071.

(3) *Insufficient records.* In determining the premium due, if, in the judgment of the PBGC, the plan's records fail to establish the participant count or (for a single-employer plan) the plan's unfunded vested benefits for any premium payment year, the PBGC may rely on data it obtains from other sources (including the IRS and the Department of Labor) for presumptively establishing the participant count and/or unfunded vested benefits for premium computation purposes.

(c) *Providing record information*—(1) *In general.* The plan administrator shall make the records retained pursuant to paragraph (a) of this section available to the PBGC promptly upon request for inspection and photocopying (or, for electronic records, inspection, electronic copying, and printout) at the location where they are kept (or another, mutually agreeable, location). If PBGC requests in writing that records retained pursuant to paragraph (a) of this section, or information in such records, be submitted to PBGC, the plan administrator must submit the requested materials to PBGC either electronically or by hand, mail, or commercial delivery service within 45 days of the date of PBGC's request therefor, or by a different time specified in the request.

* * * * *

13. In § 4007.11, paragraphs (a), (b), and (c) are revised to read as follows:

§ 4007.11 Due dates.

(a) *In general.* The premium filing due date for small plans is prescribed in paragraph (a)(1) of this section, the premium filing due date for mid-size plans is prescribed in paragraph (a)(2) of this section, and the premium filing due dates for large plans are prescribed in paragraph (a)(3) of this section.

(1) *Small plans.* If the plan had fewer than 100 participants for whom premiums were payable for the plan year preceding the premium payment year, the due date is the last day of the sixteenth full calendar month following the end of the plan year preceding the premium payment year.

(2) *Mid-size plans.* If the plan had 100 or more but fewer than 500 participants for whom premiums were payable for the plan year preceding the premium payment year:

(i) The due date is the fifteenth day of the tenth full calendar month following the end of the plan year preceding the premium payment year.

(ii) If the premium funding target is not known by the date specified in paragraph (a)(2)(i) of this section, a reconciliation filing and any required premium payment must be made by the last day of the sixteenth full calendar month following the end of the plan year preceding the premium payment year.

(3) *Large plans.* If the plan had 500 or more participants for whom premiums were payable for the plan year preceding the premium payment year:

(i) The due date for the flat-rate premium required by § 4006.3(a) of this chapter is the last day of the second full calendar month following the close of the plan year preceding the premium payment year.

(ii) The due date for the variable-rate premium required by § 4006.3(b) of this chapter for single-employer plans is the fifteenth day of the tenth full calendar month following the end of the plan year preceding the premium payment year.

(iii) If the participant count is not known by the date specified in

paragraph (a)(3)(i) of this section, a reconciliation filing and any required premium payment must be made by the date specified in paragraph (a)(3)(ii) of this section.

(iv) If the premium funding target is not known by the date specified in paragraph (a)(3)(ii) of this section, a reconciliation filing and any required premium payment must be made by the last day of the sixteenth full calendar month following the end of the plan year preceding the premium payment year.

(b) *Due dates for plans that change plan years.* For any plan that changes its plan year, the due date or due dates for the short plan year are as specified in paragraph (a)(1), (a)(2), (a)(3), or (c) of this section (whichever applies). For the plan year that follows a short plan year, each due date is the later of—

(i) The applicable due date specified in paragraph (a)(1), (a)(2), or (a)(3) of this section, or

(ii) 30 days after the date on which the amendment changing the plan year was adopted.

(c) *Due dates for new and newly covered plans.* Notwithstanding paragraph (a) of this section, the due date for the first plan year of coverage of any new plan or newly covered plan is the latest of—

(1) The last day of the sixteenth full calendar month that began on or after the first day of the premium payment year (the effective date, in the case of a new plan),

(2) 90 days after the date of the plan's adoption, or

(3) 90 days after the date on which the plan became covered by title IV of ERISA.

* * * * *

Issued in Washington, DC, this 24th day of May, 2007.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–10412 Filed 5–30–07; 8:45 am]

BILLING CODE 7709–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2007–0383; FRL–8318–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a request to amend the Missouri State Implementation Plan (SIP) to include the base year inventory for the Missouri portion of the St. Louis 8-hour ozone national ambient air quality standard (NAAQS) nonattainment area and a demonstration of Missouri's emissions statement authority. The Missouri portion of the St. Louis nonattainment area consists of the City of St. Louis and Franklin, Jefferson, St. Charles and St. Louis Counties. The nonattainment area also includes four counties in Illinois. This amendment would fulfill Missouri's obligation, as a moderate nonattainment area, to submit a base year inventory for the 8-hour ozone NAAQS and to demonstrate adequate authority to address the emissions statement requirement under Section 182(a)(1) and Section 182(a)(3)(B) of the Clean Air Act (CAA), respectively.

DATES: Comments on this proposed action must be received in writing by July 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0383 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: rios.shelly@epa.gov.*

3. *Mail:* Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier.* Deliver your comments to: Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Shelly Rios-LaLuz at (913) 551–7296, or by e-mail at *rios.shelly@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: May 14, 2007.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E7–10233 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2007–0124; FRL–8320–2]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of revising the general emission rate for particulate matter.

DATES: Comments on this proposed action must be received in writing by July 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0124 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: Hamilton.heather@epa.gov.*

3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier.* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas

66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A description of the rule and a detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: May 14, 2007.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E7–10493 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[OAR–2004–0091; FRL–8320–6]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Proposed rule—Consistency Update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources by the Ventura County Air Pollution Control District (Ventura County APCD). The intended effect of approving the OCS requirements for the Ventura County APCD is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is proposed to be incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Any comments must arrive by July 2, 2007.

ADDRESSES: Submit comments, identified by docket number OAR–2004–0091, by one of the following methods:

1. Federal eRulemaking Portal: *www.regulations.gov.* Follow the on-line instructions.

2. E-mail: *steckel.andrew@epa.gov.*

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information
Why is EPA taking this action?
II. EPA's Evaluation
A. What criteria were used to evaluate rules submitted to update 40 CFR part 55?
B. What requirements were submitted to update 40 CFR part 55?
III. Administrative Requirements
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Coordination With Indian Tribal Government
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act

I. Background Information

Why is EPA taking this action?

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of requirements submitted by the Ventura County APCD July 31, 2006, November 16, 2006, and January 8, 2007. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

A. What criteria were used to evaluate rules submitted to update 40 CFR part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of Federal and State ambient air quality standards.

B. What requirements were submitted to update 40 CFR part 55?

1. After review of the requirements submitted by the Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following District requirements applicable to OCS sources:

Rule #	Name	Adoption or amended Date
23	Exemptions From Permit.	09/12/06
26.1	New Source Review—Definitions.	11/14/06
26.12 ..	Federal Major Modifications.	06/27/06
33	Part 70 Permits—General.	09/12/06
33.1	Part 70 Permits—Definitions.	09/12/06
33.3	Part 70 Permits—Permit Content.	09/12/06
42	Permits Fees	04/11/06
74.30 ..	Wood Product Coatings.	06/27/06

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (''OMB'') review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB Review. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

B. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 55, and by extension this update to the rules, under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0249. Notice of OMB's approval of EPA Information Collection Request (''ICR'') No. 1601.06 was published in the **Federal Register** on March 1, 2006 (71 FR 10499–10500). The approval expires January 31, 2009. As EPA previously indicated (70 FR 65897–65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 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; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

[2] Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14(c)(4).

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 and are identified on the form and/or instrument, if applicable. In addition, EPA is amending the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

These rules will not have a significant economic impact on a substantial number of small entities. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million of more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's proposed rules contain no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

E. Executive Order 13132, Federalism

Executive Orders 13132, entitled ''Federalism'' (64 FR 43255 (August 10, 1999)), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. These rules do not amend the existing provisions within 40 CFR part 55 enabling delegation of OCS regulations to a COA, and this rule does not require the COA to implement the OCS rules. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comments on this proposed rule from State and local officials.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule 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 and thus does not have ''tribal implications,'' within the meaning of Executive Order 13175. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In addition, this rule does not impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Consultation with Indian tribes is therefore not required under Executive Order 13175. Nonetheless, in the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribes, EPA specifically solicits

comments on this proposed rule from tribal officials.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportional risk to children.

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

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

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

As discussed above, these rules implement requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In the absence of a prior existing requirement for the state to use voluntary consensus standards and in light of the fact that EPA is required to make the OCS rules consistent with current COA requirements, it would be inconsistent with applicable law for EPA to use voluntary consensus standards in this action. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 10, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Title 40 Chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraph (e)(3)(ii) (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

Appendix to Part 55—[Amended]

3. Appendix A to Part 55 is amended by revising paragraph (b)(8) under the heading ''California'' to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

* * * * *

(b) * * *

(8) The following requirements are contained in Ventura County Air Pollution Control District Requirements Applicable to OCS Sources:

Rule 2 Definitions (Adopted 4/13/04)
Rule 5 Effective Date (Adopted 4/13/04)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 4/13/04)
Rule 11 Definition for Regulation II (Adopted 3/14/06)
Rule 12 Application for Permits (Adopted 6/13/95)
Rule 13 Action on Applications for an Authority to Construct (Adopted 6/13/95)
Rule 14 Action on Applications for a Permit to Operate (Adopted 6/13/95)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 BACT Certification (Adopted 6/13/95)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 23 Exemptions from Permits (Revised 9/12/06)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26 New Source Review (Adopted 3/14/06)
Rule 26.1 New Source Review—Definitions (Adopted 11/14/06)
Rule 26.2 New Source Review—Requirements (Adopted 3/14/06)
Rule 26.3 New Source Review—Exemptions (Adopted 3/14/06)
Rule 26.6 New Source Review—Calculations (Adopted 3/14/06)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 1/13/98)
Rule 26.11 New Source Review—ERC Evaluation At Time of Use (Adopted 5/14/02)
Rule 26.12 Federal Major Modifications (Adopted 6/27/06)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 3/14/06)
Rule 30 Permit Renewal (Adopted 4/13/04)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
Rule 33 Part 70—Permits—General (Adopted 9/12/06)
Rule 33.1 Part 70—Permits—Definitions (Adopted 9/12/06)
Rule 33.2 Part 70—Permits—Application Contents (Adopted 4/10/01)
Rule 33.3 Part 70—Permits—Permit Content (Adopted 9/12/06)

Rule 33.4 Part 70—Permits—Operational Flexibility (Adopted 4/10/01)
Rule 33.5 Part 70—Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70—Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70—Permits—Notification (Adopted 4/10/01)
Rule 33.8 Part 70—Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70—Permits—Compliance Provisions (Adopted 4/10/01)
Rule 33.10 Part 70—Permits—General Part 70—Permits (Adopted 10/12/93)
Rule 34 Acid Deposition Control (Adopted 3/14/95)
Rule 35 Elective Emission Limits (Adopted 11/12/96)
Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/6/98)
Rule 42 Permit Fees (Adopted 4/11/06)
Rule 44 Exemption Evaluation Fee (Adopted 9/10/96)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 6/22/99)
Rule 50 Opacity (Adopted 4/13/04)
Rule 52 Particulate Matter-Concentration (Adopted 4/13/04)
Rule 53 Particulate Matter-Process Weight (Adopted 4/13/04)
Rule 54 Sulfur Compounds (Adopted 6/14/94)
Rule 56 Open Burning (Revised 11/11/03)
Rule 57 Incinerators (Adopted 1/11/05)
Rule 57.1 Particulate Matter Emissions From Fuel Burning Equipment (Adopted 1/11/05)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 4/13/99)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 4/13/04)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Adopted 9/13/05)
Rule 73 National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 9/13/05)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 11/13/01)
Rule 74.6 Surface Cleaning and Degreasing (Revised 11/11/03—effective 7/1/04)
Rule 74.6.1 Batch Loaded Vapor Degreasers (Adopted 11/11/03—effective 7/1/04)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 11/8/05)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 3/10/98)
Rule 74.11 Natural Gas-Fired Residential Water Heaters—Control of NO_X (Adopted 4/9/85)
Rule 74.11.1 Large Water Heaters and Small Boilers (Adopted 9/14/99)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 11/11/03)
Rule 74.15 Boilers, Steam Generators and Process Heaters (Adopted 11/8/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (Adopted 6/13/00)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 1/11/05)
Rule 74.23 Stationary Gas Turbines (Adopted 1/08/02)
Rule 74.24 Marine Coating Operations (Revised 11/11/03)
Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 1/08/02)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)
Rule 74.30 Wood Products Coatings (Revised 6/27/06)
Rule 75 Circumvention (Adopted 11/27/78)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 102 Source Tests (Adopted 4/13/04)
Rule 103 Continuous Monitoring Systems (Adopted 2/9/99)
Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)
Rule 220 General Conformity (Adopted 5/9/95)
Rule 230 Notice to Comply (Adopted 11/9/99)

* * * * *

[FR Doc. E7–10457 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document responds to a petition for rulemaking regarding the Federal motor vehicle safety standard on lighting. Mr. Richard Fairall petitioned the agency to amend the standard to incorporate performance requirements for a ''stroboscopic lighting system'' that can be installed on the front and rear of a motorcycle as a collision avoidance system. NHTSA is denying this petition because the petitioner did not demonstrate or provide any quantitative data showing that implementation of his recommended lighting system would result in a reduction of death and injury to motorcyclists or other motorists. However, notwithstanding the absence of detailed safety data in Mr. Fairall's submission, because NHTSA has a continued interest in identifying potential countermeasures to reduce motorcycle crashes, the agency conducted a preliminary evaluation of the petitioner's recommended auxiliary ''stroboscopic lighting system.'' The preliminary evaluation did not persuade NHTSA that the stroboscopic lighting system would result in fewer motorcycle crashes.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, telephone (202)–366–6987, facsimile (202)–493–2739.

SUPPLEMENTARY INFORMATION:

Background

Mr. Richard ''Scott'' Fairall petitioned NHTSA to amend Federal motor vehicle safety standard (FMVSS) No. 108 to incorporate performance requirements for a flashing front and rear motorcycle collision avoidance lighting system. Mr. Fairall devised an auxiliary ''stroboscopic lighting system'' for motorcycles to be used by the motorcyclist with the intent of reducing the incidences of other motorists violating the right-of-way of motorcyclists. The rider of the motorcycle would activate and

deactivate the system (usually when approaching an intersection) using a rocker switch.

The forward facing portion of Mr. Fairall's system is comprised of two turn signal housings with clear lenses, each having a strobe light in it. The rearward facing portion has red lenses and is also comprised of two turn signal housings, each with a strobe inside. The strobe controller flashes each side's strobe twice (at 2 Hz) before alternating to the other side. The duration that the lighting system remains activated would depend on the speed of the motorcycle and the width of the intersection. Mr. Fairall stated the maximum length of time of use for the lighting system would be approximately four seconds.

Mr. Fairall claimed his auxiliary ''stroboscopic lighting system'' would warn motorists of the potential for collision, and has effectively prevented accidents involving his motorcycle for over 11,000 miles. In addition, he also provided numerous anecdotes regarding the effectiveness of his and other, similar, modulating headlamp designs. In his petition, Mr. Fairall claimed that his recommended lighting system would enhance the conspicuity of the motorcycle and produce a significant and immediate downward trend in crashes and injuries to motorcyclists. Finally, Mr. Fairall cited NHTSA statistics showing a substantial increase in motorcycle accidents and fatalities.

FMVSS No. 108; *Lamps, Reflective Devices, and Associated Equipment*, specifies requirements for original and replacement lamps, reflective devices, and associated equipment. The purpose of the standard is to reduce traffic collisions, by providing adequate illumination of the roadway, and by enhancing the conspicuity of motor vehicles on the public roads so that their presence is perceived and their signals understood, both in daylight and in darkness or other conditions of reduced visibility. Among the many aspects of vehicle lighting that are covered by FMVSS No. 108 are the conditions under which lamps on a vehicle are wired and permitted to flash.

Paragraph S5.5.10 of FMVSS No. 108 states:

> The wiring requirements for lighting equipment in use are:
>
> (a) Turn signal lamps, hazard warning signal lamps, and school bus warning signal lamps shall be wired to flash;
>
> (b) Headlamps and side marker lamps may be wired for signaling purposes;
>
> (c) A motorcycle headlamp may be wired to allow either its upper beam or lower beam, but not both to modulate from a higher intensity to a lower intensity in accordance with section S5.6; [1]

Steady means free from change or variation. This means that they must not modulate, flash, or vary in size, area, intensity or appearance.

Motorcycle headlamp systems that modulate, as permitted under S7.9.4 of FMVSS No. 108, enhance the conspicuity of motorcycles without having other negative safety impacts (e.g., causing confusion with emergency vehicles). Currently, motorcycle headlamp modulation systems or other lighting systems that deviate from these requirements are not permitted under FMVSS No. 108 and may not be installed on new vehicles or sold in the aftermarket as replacement equipment.

NHTSA notes that based upon the agency's policy statements published in the **Federal Register** on November 4, 1998 (Volume 63, Number 213, pages 59482–59492) in order to be treated as a petition, the Fairall submission must have substantive data purporting to show positive safety benefits for the recommended idea. As the NHTSA policy statement makes clear, NHTSA has neither the budget nor the time to sponsor exhaustive research (such as fleet testing) of most lighting ideas presented to it. Because Mr. Fairall's submission did include some data, we treated it as a petition. NHTSA is denying this petition because the petitioner did not demonstrate or provide sufficient quantitative data showing that implementation of his recommended lighting system would result in a reduction of death and injury motorcyclists or other motorists.

Paragraph 5.5.10 of FMVSS No. 108 restricts lamps that may flash to certain ones. The reason for restricting flashing lamps is to ensure that the signal is instantly recognized and unambiguous to drivers, as explained in our November 4, 1998 Statement of Policy. There is a positive safety benefit to the public from clear and unambiguous signals. Mr. Fairall's recommended lamps, which would be considered auxiliary because they are not required equipment, are not among those permitted to flash.

We do not believe Mr. Fairall's data are sufficient to show positive safety benefits from changing our current standardized requirements. The petitioner's primary support for his contention that his recommended system is effective in reducing motorcyclists' death and injury is to refer to an ''11,000 mile benchmark test;'' i.e., operating the system while he rode his motorcycle. The petitioner stated, ''It has been 100 percent effective in stopping motorist from violating my right-of-way throughout the testing period of more than 11,000 miles.''

Based on statistical considerations, the 11,000 vehicle-miles-driven is insufficient to form a valid estimate for the impact this system might have on motorcycle safety. Mr. Fairall's numerous anecdotal examples of drivers noticing his lighting system do not qualify as sufficient data. Moreover, the petitioner did not provide data to support his contention that the use of the ''stroboscopic lighting system'' was the reason that motorists did not violate his right-of-way. Data addressing the behavior of other motorists who encountered the lighting system was not provided.

Additional Data Analysis

NHTSA is aware that since 1999, motorcycle injuries and fatalities have continued to rise and the majority of fatalities are multi-vehicle crashes. Frequently, crashes are the result of a right-of-way violation at an intersection, where the motorcycle is traveling straight when it collides with another vehicle that has either turned or pulled out in front of it. The agency has ongoing research efforts focusing on ways to increase motrcycle conspicuity. One such research effort, a study done by Calspan Corporation, examines whether the use of Daytime Running Lamps (DRLs) on motorcylces would improve their conspicuity.

Despite the previously stated consideration of a lack of supporting data, NHTSA decided to undertake some additional testing of Mr. Fairall's recommended stroboscopic lighting system on an investigatory basis. The agency conducted a preliminary evaluation of the petitioner's recommended concept at our Vehicle Research & Test Center (VRTC) in East Liberty, Ohio. We made this decision based upon our continued interest in identifying potential countermeasures to reduce motorcycle crashes.

The prevalence of right-of-way collisions near intersections guided this research. Researchers have hypothesized that the majority of frontal crashes are attributable to either poor speed-spacing judgment of other motorists or insufficient front motorcycle conspicuity. Speed-spacing judgment refers to the accuracy that a driver can estimate the distance at which it is safe to turn left at an intersection in front of an oncoming motorcycle. Conspicuity is the extent to

[1] We note that the reference to S5.6 is an error, and that the reference should point to S7.9.4. NHTSA will issue a technical amendment to correct this error shortly.

which an object can be distinguished from its surroundings. Because most fatal multi-vehicle crashes involving motorcycles are the result of a right-of-way violation in the proximity of an intersection, three intersection-type test scenarios were utilized to examine potential conspicuity improvements to a motocycle equipped with the forward facing portion of the ''stroboscopic lighting system''. The test scenarios included a gap acceptance test that was initiated with the motorcycle taking a position in the adjacent, opposing traveling lane. The other two were right side and left side peripheral field-of-view scenarios.

Since the majority of motorcycle fatalities involve other vehicles impacting the motorcycle from the front, the agency evaluated the front portion of Mr. Fairall's system. This evaluation involved three intersection-type tests. The agency did not find any safety benefits in a speed-spacing judgment test (gap acceptance test) nor in a peripheral detectability test involving motorcyclists at 90° to a stationary vehicle driver's line-of-sight. While potential limited benefits were associated with the system in a peripheral detectability test at 45°, it is unclear whether they would outweigh safety disbenefits such as the system providing a false sense of security to motorcyclists and the impact on the driving behavior of other drivers who may react to the strobing light in unexpected manners. A common concern with auxiliary lamps and lighting systems is their potential to distract other drivers sharing the roadway from understanding and responding to the lighting devices requires by the standard. In order to initiate rulemaking to allow a system such as the one identified by Mr. Fairall, the agency would need clear data demonstrating safety benefits.

Agency Conclusion

After a thorough review of Mr. Fairall's petition, the agency has decided to deny Mr. Fairall's petition for rulemaking. The agency notes that the limited data the petitioner provided, consisting of the petitioner's own experiences in driving approximately 11,000 miles as well as anecdotal evidence, are insufficient to support a rulemaking. Despite the petitioner's attempt to demonstrate the effect of the new lighting system, NHTSA would require substantially more data demonstrating the effectiveness of such a system to initiate a rulemaking.

À ''strooscopic'' or flasing lighting system operated by the motorcyclist near intersections to increase his or her conspicuity is an interesting concept. Our preliminary evaluation showed that the recommended ''stroboscopic lighting system'' does not appear to enhance motorcycle conspicuity if the driver of the car is directly observing the motorcycle, or if the motorcycle approaches the car at 90 degrees or greater to the driver's line of sight. While limited improvements were found in motorcycle conspicuity when the motorcyclist approaches a vehicle at approximately 45 degrees to the driver's line of sight, the data are insufficient to warrant rulemaking activity. Therefore, the agency is denying the petition.

The agency remains interested in finding effective ways to increase motorcycle conspicuity and reduce the number of crashes involving motorcycles.

Dated: May 23, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 07–2693 Filed 5–30–07; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU48

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Wintering Population of the Piping Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, notice of availability of draft economic analysis and draft environmental assessment, and announcement of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis and draft environmental assessment, the reopening of the public comment period, and a public hearing on the proposed revised designation of critical habitat for the wintering population of the piping plover (*Charadrius melodus*) under the Endangered Species Act of 1973, as amended (Act). We are reopening the public comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the associated draft economic analysis and draft environmental assessment. The draft economic analysis finds that costs associated with conservation activities for the wintering population of the piping plover in North Carolina are forecasted to range from $0 to $12.2 million in lost consumer surplus and $0 to $21.1 million in lost trip expenditures in undiscounted dollars over the next 20 years, with an additional $32,000 to $79,000 in administrative costs. Discounted impacts are estimated to range from $0 to $6.2 million in lost consumer surplus and $0 to $10.6 million in lost trip expenditures over 20 years using a real rate of seven percent, with an additional $17,000 to $42,000 in administrative costs. This amounts to $0 to $503,000 in lost consumer surplus and $0 to $861,000 in lost trip expenditures, annually. Using a real rate of three percent, discounted impacts are estimated at $0 to $8.9 million in lost consumer surplus and $0 to $15.4 million in lost trip expenditures over the next 20 years, with an additional $24,000 to $59,000 in administrative costs. This amounts to $2,000 to $600,000 in lost consumer surplus and $0 to $1.0 million in lost trip expenditures, annually. The draft environmental assessment finds that designation of critical habitat would not impose any physical alteration of the physical or biological communities used by the wintering population of the piping plover, nor would it alter any social, cultural, or recreational resources or the use of such resources beyond current conditions or existing management strategies. Comments previously submitted need not be resubmitted as they will be incorporated into the public record and fully considered in preparation of the final rule.

DATES: *Written comments:* We will accept public comments until July 30, 2007.

Public hearing: We will hold a public hearing on the proposed revised designation of critical habitat, and the draft economic analysis and draft environmental assessment, from 5 p.m. to 7 p.m. on June 20, 2007. The public hearing will be preceded by a public information session from 4 p.m. to 5 p.m. at the same location (see *Public hearing* under **ADDRESSES**).

ADDRESSES: *Written comments:* If you wish to comment, you may submit your comments and information concerning this proposal, identified by ''Attn: Wintering Piping Plover Critical Habitat,'' by any one of the following methods:

1. Mail to Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Field Office, P.O. Box 33726, Raleigh, NC 27636–3726.

2. Hand-deliver to Raleigh Field Office, 551–F Pylon Drive, Raleigh, NC 27606.

3. Electronic mail (e-mail) to *ncplovercomments@fws.gov*. Please see the ''Public Comments Solicited'' section under **SUPPLEMENTARY INFORMATION** for file format and other information about electronic filing.

4. Fax to 919–856–4556.

5. Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Public hearing: The public hearing on the proposed revised critical habitat designation, draft economic analysis, and draft environmental assessment will take place at the Fessenden Center, 46830 Highway 12, Buxton, Dare County, North Carolina. Maps of the proposal and other materials will be available for public review.

Availability of supporting documentation: Comments and materials received, as well as supporting documentation used in the preparation of the proposed rule, will be available for public inspection by appointment during normal business hours at the Raleigh Field Office (see addresses above).

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Field Office, telephone 919–856–4520 extension 11, fax 919–856–4556. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from the proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule, draft economic analysis, and draft environmental assessment are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of wintering piping plover habitat in North Carolina, and what areas should be included in the designation that were occupied at the time of listing that contain the features that are essential for the conservation of the species and why, and what areas that were not occupied at the time of listing are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed revised critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed revised designation and, in particular, any impacts on small entities;

(5) Any foreseeable environmental impacts directly or indirectly resulting from the proposed revised designation of critical habitat;

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding or to assist us in accommodating public concerns and comments;

(7) Whether our determination of areas identified as not being in need of special management is accurate;

(8) Information to assist the Secretary of the Interior in evaluating habitat with physical and biological features essential to the conservation of the piping plover on Cape Hatteras National Seashore, administered by the National Park Service, based on any benefit provided by the Interim Protected Species Management Strategy/Environmental Assessment to the conservation of the wintering piping plover;

(9) Whether the draft economic analysis identifies all State and local costs attributable to the proposed revised critical habitat designation, and information on any costs that have been inadvertently overlooked;

(10) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes that would be imposed as a result of the designation of revised critical habitat;

(11) Whether the draft economic analysis correctly assesses the effect on regional costs associated with any land use controls that may derive from the designation of the proposed revised critical habitat;

(12) Whether the draft economic analysis appropriately identifies all costs and benefits that could result from the proposed revised designation; and

(13) Whether there is any information to suggest that beach recreation might increase as a result of this designation, and whether the effects of any such increased visitation can be quantified.

If you wish to comment, you may submit your comments and materials concerning the proposal by any one of several methods (see **ADDRESSES**). Please note that comments merely stating support or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations to be made ''solely on the basis of the best scientific and commercial data available.'' If you submit comments electronically, include ''Attn: Wintering Piping Plover Critical Habitat'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your electronic message, contact us directly by calling the Raleigh Field Office at 919–856–4520. Please note that the e-mail address *ncplovercomments@fws.gov* will be closed at the termination of the public comment period.

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.

Copies of the draft economic analysis and draft environmental assessment and the revised proposed rule for critical habitat designation are available on the Internet at *http://www.fws.gov/nc-es* or from the Raleigh Field Office at the address and contact numbers above.

Our final determination on the designation of revised critical habitat will take into consideration all comments and any additional information we received during both comment periods. Previous comments and information submitted during the initial comment period on the June 12, 2006, proposed rule (71 FR 33703) need not be resubmitted. On the basis of information received during the public comment periods, we may, during the development of our final revised critical habitat determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion. An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of including a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. We may

exclude an area from designated critical habitat based on economic impacts, national security, or any other relevant impact.

Background

We first designated critical habitat for the wintering population of the piping plover on July 10, 2001 (66 FR 36038). In 2004, the U.S. District Court for the District of Columbia remanded to us the 2001 designation of four units located at the Cape Hatteras National Seashore in Dare and Hyde counties, North Carolina (*Cape Hatteras Access Preservation Alliance* v. *U.S. Department of the Interior*, 344 F. Supp 2d 108). On June 12, 2006, we published a proposed rule to designate revised critical habitat for the wintering population of the piping plover in North Carolina (71 FR 33703). That proposed rule describes four coastal areas (units), totaling approximately 1,827 acres (ac) (739 hectares (ha)) within Cape Hatteras National Seashore, as critical habitat for the wintering population of the piping plover. These four units contain a contiguous mix of intertidal beaches and sand or mud flats (between annual low tide and annual high tide) with little or no emergent vegetation, and adjacent areas of unvegetated or sparsely vegetated dune systems and sand or mud flats above annual high tide.

In our June 12, 2006, proposed rule, we also proposed excluding from the units the islands DR–005–05 and DR–005–06 (Dare County) and DR–009–03/04 (Dare and Hyde counties), owned by the State of North Carolina, and about 237 ac (96 ha) of Pea Island National Wildlife Refuge (Dare County). Based on a determination following our analysis under sections 4(b)(2) and 3(5)(A) of the Act, these areas were proposed for exclusion from critical habitat because they are either protected by existing habitat conservation plans or do not require special management considerations or protection.

The four proposed revised units, combined with the areas proposed for exclusion, constitute our best assessment of those areas containing features essential to the conservation of the species. We will submit for publication in the **Federal Register** a final revised critical habitat designation for the wintering population of the piping plover on or before January 16, 2008.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the revised proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic or any other relevant impact of specifying any particular area as critical habitat. We have prepared a draft economic analysis based on the June 12, 2006, proposed rule (71 FR 33703) to revise critical habitat for the wintering population of the piping plover.

The draft economic analysis estimates the foreseeable economic impacts of conservation measures for the wintering population of the piping plover within the proposed revised critical habitat designation on government agencies and private businesses and individuals. Specifically, the analysis measures how management activities undertaken by the National Park Service to protect wintering piping plover habitat against the threat of off-road vehicle (ORV) use may affect the value of the beaches to ORV users and the region. In this analysis, it is assumed that the primary management tool employed for wintering piping plover conservation could be the implementation of closures of certain portions of the beach. The Service believes, however, that additional closures due to wintering piping plovers are unlikely. These closures are considered as reducing the opportunity for recreational activities, such as ORV use. At this time, the National Park Service is not undertaking any other activities on which it expects to be required to consult in the future. Other than recreational activities, the Park Service also does not know of any projects or activities, such as U.S. Army Corps of Engineers dredging, that could potentially be affected by critical habitat. The analysis, therefore, focuses on the effect of public closures of beaches on ORV use and the potential administrative costs to the National Park Service resulting from additional section 7 consultations and other administrative duties caused by designation of critical habitat. Our analysis reflects that recreation may be affected under one of two possible scenarios: The high-end scenario estimates a percentage of ORV trips to proposed revised designated critical habitat areas would be lost, and the low-end scenario assumes no trips would be lost.

The draft economic analysis forecasts that costs associated with conservation activities for the wintering population of the piping plover in North Carolina would range from $0 to $12.2 million in lost consumer surplus and $0 to $21.1 million in lost trip expenditures in undiscounted dollars over the next 20 years, with an additional $32,000 to $79,000 in administrative costs. Discounted forecast impacts are estimated to range from $0 to $6.2 million in lost consumer surplus and $0 to $10.6 million in lost trip expenditures over 20 years using a real rate of seven percent, with an additional $17,000 to $42,000 in administrative costs. This amounts to $0 to $503,000 in lost consumer surplus and $0 to $861,000 in lost trip expenditures, annually. Using a real rate of three percent, discounted forecast impacts are estimated at $0 to $8.9 million in lost consumer surplus and $0 to $15.4 million in lost trip expenditures over the next 20 years, with an additional $24,000 to $59,000 in administrative costs. This amounts to $2,000 to $600,000 in lost consumer surplus and $0 to $1.0 million in lost trip expenditures, annually. Of the four units proposed as critical habitat, unit NC–2 is calculated to experience the highest estimated costs (about 40 percent) in both lost consumer surplus ($0 to $4.9 million, undiscounted) and lost trip expenditures ($0 to $8.4 million, undiscounted). Units NC–4, NC–5, and NC–1 account for about 26, 20, and 14 percent, respectively, of the total potential impacts.

The draft economic analysis considers the potential economic effects of all actions relating to the conservation of the wintering population of the piping plover, including costs associated with section 7 of the Act and those costs attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the wintering population of the piping plover in proposed revised critical habitat areas. The draft analysis considers both

economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect lost economic opportunities associated with restrictions on land use (opportunity costs). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this draft analysis looks retrospectively at costs that have been incurred since the date the species was listed as threatened and considers those costs that may occur in the 20 years following the revision of critical habitat.

As stated earlier, we solicit data and comments from the public on this draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period.

National Environmental Policy Act

The court decision ordering us to revise the critical habitat designation also ordered us to prepare an environmental analysis of the proposed designation under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). To comply with the court's order, we have prepared a draft environmental assessment pursuant to the requirements of NEPA as implemented by the Council on Environmental Quality regulations (40 CFR 1500–1508) and according to the Department of the Interior's NEPA procedures. The draft environmental assessment is based on the June 12, 2006, proposed rule (71 FR 33703). The scope of the environmental assessment includes an evaluation of the impact of the proposed designation of the four revised critical habitat units (Units NC–1, NC–2, NC–4, and NC–5) for the wintering population of the piping plover. The draft environmental assessment presents the purpose of and need for critical habitat designation, the No Action and Preferred alternatives, and an evaluation of the direct, indirect, and cumulative effects of the alternatives. Within the analysis is the option to designate only some of the units or some portion of the units identified in the proposed rule. Following the analyses of sections 4(b)(2) and 3(5)(A) of the Act, the consideration of impacts and special management or protection at a unit level may result in alternative combinations of proposed habitat that may or may not ultimately be designated as critical habitat. For a more complete description of the application of section 3(5)(A) and exclusions under section 4(b)(2) of the Act, see our proposed rule (June 12, 2006; 71 FR 33703).

The environmental assessment will be used by the Service to determine if critical habitat should be designated as proposed, if the Action Alternative requires refinement, or if further analyses are needed through preparation of an Environmental Impact Statement. If the Action Alternative is selected as described, or with minimal changes, and no further environmental analyses are needed, then the Service will conclude the NEPA process by issuing a Finding of No Significant Impact.

As stated earlier, we solicit data and comments from the public on this draft environmental assessment, as well as on all other aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period.

Required Determinations—Amended

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. However, it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget did not formally review the proposed rule.

Further, Executive Order 12866 directs Federal agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement under the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat provided that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. We believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city, town, and county governments that serve fewer than 50,000 residents (for example, Dare and Hyde counties), as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities, including Dare County and Hyde County governmental entities, are significant, we considered in our economic analysis the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result.

In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the proposed revised critical habitat designation for the wintering population of the piping plover would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (for example, residential and commercial development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies.

In our draft economic analysis, we evaluated the potential economic effects on small business and governmental entities resulting from conservation actions related to the proposed revised designation of critical habitat for the wintering population of the piping plover. This analysis estimated prospective economic impacts due to the implementation of wintering piping plover conservation efforts in two categories: Recreation (particularly ORV use), and section 7 consultation undertaken by the National Park Service. We determined from our analysis that impacts of section 7 consultation are not anticipated to affect small business or governmental entities because the costs of consultation are borne entirely by the National Park Service. The loss of trips would impact local businesses that serve the area, because lost trips would have generated visitor expenditures on such items as food, lodging, shopping, transportation, entertainment, and recreation. See ''Economic Analysis'' section above and the draft economic analysis for a more detailed discussion of estimated discounted impacts.

Approximately 93 percent of businesses in affected industry sectors in both counties are small. Assuming that all expenditures are lost only by small businesses and that these expenditures are distributed equally across all small businesses in both counties, each small business may experience a reduction in annual sales of between $349 and $3,429, depending on its industry. Specifically, the entertainment industry may expect a loss of $349 if no trips are lost and $524 if trips are lost. The food industry may expect a loss of $426 and $641 for no trips lost and trips lost, respectively. The shopping industry may expect a loss of $730 and $1,097, and lodging may expect a loss of $1,930 to $2,902 for no trips lost and trips lost, respectively. The transportation industry may expect a loss of $2,281 if no trips are lost and $3,429 if trips are lost. If the small business is generating annual sales just under the SBA small business threshold for its industry, this loss represents between 0.01 and 0.04 percent of its annual sales (0.01 percent for food, shopping, and entertainment; 0.03 to 0.04 percent for lodging and transportation). The Service concludes that this is not a significant economic impact.

Assuming that each small business has annual sales just under its SBA industry small business threshold may underestimate lost expenditures as a percentage of annual sales. It is likely that most small businesses have annual sales well below the threshold. However, even if a business has annual sales below the small business threshold for its particular industry, it is probable that lost expenditures still are relatively small compared to annual sales. For example, if a small business has annual sales that are a tenth of its SBA small business threshold, potential losses still only represent between 0.05 and 0.45 percent of its annual sales.

Therefore, we do not believe that the designation of critical habitat for the wintering piping plover would result in a disproportionate effect to small business entities.

Executive Order 13211

On May 18, 2001, the President issued Executive Order (E.O.) 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule is considered a significant regulatory action under E.O. 12866 because it raises novel legal and policy issues, but it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Non-Federal entities that receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would

critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) As discussed in the draft economic analysis of the proposed revised designation of critical habitat for the wintering population of the piping plover, we believe that impacts to small governments are not expected because only Federal lands are proposed for designation. As such, it is unlikely that small governments will be involved with projects involving section 7 consultations for the wintering population of the piping plover within their jurisdictional areas. Consequently, we do not believe that the designation of critical habitat for this species would significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan is not required.

Takings

In accordance with E.O. 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing revised critical habitat for the wintering population of the piping plover. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of the revised critical habitat for this species would not pose significant takings implications.

Author

The primary author of this notice is David Rabon of the Raleigh Field Office (see **ADDRESSES**).

Authority The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 24, 2007.

Todd Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–10476 Filed 5–30–07; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 72, No. 104
Thursday, May 31, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Office of Inspector General; Senior Executive Services (SES) Performance Review Board (PRB): Updating

ACTION: Notice.

SUMMARY: This notice is hereby given of the appointment of members of the updated U.S. Agency for International Development (USAID), Office of Inspector General (OIG), SES PRB.

DATES: May 22, 2007.

FOR FURTHER INFORMATION CONTACT: Paula F. Hayes, Assistant Inspector General for Management, Office of Inspector General, U.S. Agency for International Development, 1300 Pennsylvania Avenue, NW., Room 8.08–029, Washington, DC 20523–8700; telephone 202–712–0010; FAX 202–216–3392; Internet e-mail address: *phayes@usaid.gov* (for e-mail messages, the subject line should include the following reference—USAID OIG SES PRB).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(b)(c) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management at 5 CFR part 430, subpart C and Section 430.307 thereof in particular, one or more SES PRBs. The PRB shall review and evaluate the initial appraisal of each USAID OIG senior executive's performance by his or her supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. This notice updates the membership of the USAID OIG's SES PRB as it was last published.

Approved: May 22, 2007.

The following have been selected as regular members of the SES PRB of USAID OIG:

Michael G. Carroll, Deputy Inspector General.

Joseph Farinella, Assistant Inspector General for Audit.

Adrienne R. Rish, Assistant Inspector General for Investigations.

Paula F. Hayes, Assistant Inspector General for Management.

Lisa S. Goldfluss, Legal Counsel.

Bruce N. Boyer, Deputy Assistant Inspector General for Audit.

Alvin A. Brown, Deputy Assistant Inspector General for Audit.

Howard I. Hendershot, Deputy Assistant Inspector General for Investigations.

Winona H. Varnon, Director, Security Services, Department of Education.

Pauline K. Brunelli, Director, Federal Voting Assistance Program Department of Defense.

Dated: May 23, 2007.

Donald A. Gambatesa,

Inspector General, U.S. Agency for International Development.

[FR Doc. E7–10413 Filed 5–30–07; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 24, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Nebraska Rural Area Eligibility Determination Pilot.

OMB Control Number: 0584–NEW.

Summary of Collection: The Food and Nutrition Service (FNS), on behalf of the Secretary of Agriculture, is authorized by Public Law 108–265 (through Section 119 of the Child Nutrition and WIC Reauthorization Act of 2004) to establish a demonstration pilot of the Child and Adult Care Food Program (CACFP) in Nebraska rural areas only for each of the fiscal years 2006 and 2007 to determine eligibility for tier I reimbursement in areas in which poor economic conditions exist.

Need and Use of the Information: The survey questions have been designed to collect information that will address: (1) The number of Family Day Care Homes (FDCHs) offering meals through the CACFP; (2) the number of FDCHs offering meals as a tier I entity that would otherwise be defined as tier II FDCHs under program regulations; (3) the geographic location of FDCHs; (4) a description of services provided to eligible children; and (5) other factors determined by the Secretary. If the information is not collected authorizing legislation for the pilot cannot be addressed by the evaluation and furthermore, information relevant to the reason why providers participate in the CACFP and barriers to continued participation will not be collected.

Description of Respondents: Business or other for-profit.

Number of Respondents: 632.

Frequency of Responses: Report: Other (once).

Total Burden Hours: 405.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–10393 Filed 5–30–07; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 24, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP) Systems.

OMB Control Number: 0583–0103.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451). These statutes mandate that FSIS protect the public by ensuring the meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS has established requirements applicable to meat and poultry establishments designed to reduce the occurrence and numbers of pathogenic microorganisms on meat and poultry products, reduce the incidence of foodborne illness associated with the consumption of those products, and provide a new framework for modernization of the current system of meat and poultry inspection.

Need and Use of the Information: FSIS will collect information to ensure that (1) establishments have developed and maintained a standard operating plan for sanitation that is used by inspection personnel in performing monitoring regulations; (2) establishments have developed written procedures outlining specimen collection and handling for *E. coli* process control verification testing; (3) establishments developed written HAACP plans; (4) establishments will keep records for measurements during slaughter and processing, corrective action, verification check results, and related activities that contain the identity of the product, the product code or slaughter production lot, and the date the record was made; and (5) establishments may have prerequisite programs that are designed to provide the basic environmental and operating conditions necessary for the production of safe, wholesome food.

Description of Respondents: Business or other for-profit.

Number of Respondents: 7,721.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Other (daily).

Total Burden Hours: 6,505,398.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–10394 Filed 5–30–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2006–0038]

Availability of Electronic Web-Based FSIS Form 10,240–1, Production Information on Post-Lethality Exposed Ready-To-Eat Products, With Revisions and Detailed Instructions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and opportunity for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of an electronic Web-based version of FSIS Form 10,240–1, Production Information on Post-Lethality Exposed Ready-to-Eat Products. This form is available for the first time for online submission.

FSIS Form 10,240–1 will be used to collect information about the ready-to-eat (RTE) products produced by establishments.

ADDRESSES: FSIS invites interested persons to send comments on this notice. Comments may be sent by any of the following methods:

- Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250.
- Electronic mail: *fsis.regulationscomments@fsis.usda.gov*.
- Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulation.gov* and in the ''Search for Open Regulations'' box, select ''Food Safety and Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select FDMS Docket Number 2006–0038 to send or view public comments and to view supporting and related materials available electronically.

All submissions received by mail or electronic mail must include the Agency name and docket number 2006–0038. All comments sent in response to this document, as well as research and background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. Comments will also be posted on the Agency's Web site

at *http://www.fsis.usda.gov/regulations_&_policies/regulations_directives_&_notices/index.asp*.

FOR FURTHER INFORMATION CONTACT: Tom Doyle, U.S. Department of Agriculture, FSIS, Technical Service Center, Program Analysis Staff, FSIS, 1–800–233–3935.

SUPPLEMENTARY INFORMATION:

Background

FSIS is committed to developing strategies that address food safety hazards throughout the entire food production chain. Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, FSIS has the authority and responsibility to provide for the safety of meat and poultry products during in-plant production and through transportation, storage, and other handling.

On June 6, 2003, FSIS published an interim final rule (68 FR 34207) to require that official establishments that produce RTE meat and poultry products that are exposed to the environment after a lethality treatment has been administered act to prevent product adulteration by the pathogen *Listeria monocytogenes* (*L. monocytogenes*). In this interim final rule, FSIS identified three alternative methods for addressing post-lethality contamination of RTE products by *L. monocytogenes* and required that establishments adopt and implement one of these alternatives.

The use of FSIS Form 10,240–1, Production Information on Post-Lethality Exposed Ready-to-Eat Products, facilitates collection of information about the RTE products produced by establishments. This information is used in developing FSIS' annual sampling frequencies for establishments and RTE products. The annual collection of this information was addressed in the interim final rule in 9 CFR 430.4(d). The Agency will use this information, along with the FSIS verification testing history of the establishment, to design a risk-based verification testing program, as stated in the preamble to the interim final rule.

The regulations at 9 CFR 430.4(d) state that ''* * * an establishment that produces post-lethality exposed RTE product shall provide FSIS * * * with estimates of annual production volume and related information for the types of meat and poultry products processed * * * .'' FSIS Form 10,240–1 was developed for this purpose and is now available in the new, Web-based submittable format. It can be found on the FSIS Web site at *http://www.fsis.usda.gov/Forms/PDF/Form_10240–1.pdf*. Any establishment required to complete this form will be able to complete and submit the form entirely online, which will ensure more timely submission and more accurate information. In addition to reformatting the form to facilitate its being fillable and submittable online, FSIS has revised the content of the form in certain minor respects:

- Item 1g, Plant Size Category was added.
- Item 2, Annual Production Volume, Other Than Deli Products, has two new product designations. These new columns are Frozen Products and Pate' Products.
- Item 3, Alternative 3, Question B was deleted.

Establishments are required to file Form 10,240–1 whenever a significant change in the alternative category or volume of production occurs.

The address for any written communication concerning FSIS Form 10,240–1 has changed. Send all written correspondence to: U.S. Department of Agriculture, FSIS, Technical Service Center, Program Analysis Staff, Suite 300 Landmark Center, 1299 Farnam Street, Omaha, NE 68102. Fax number (402) 344–5006. Phone: 1–800–233–3935.

Awareness Meeting With Establishment Management

FSIS Inspectors-In-Charge (IICs) at establishments that produce products that are regulated under 9 CFR part 430 have been instructed to provide information on the electronic FSIS Form 10,240–1 to establishment management. The IICs are to provide the following information:

1. The form is located on the FSIS Web site at: *http://www.fsis.usda.gov/Forms/PDF/Form_10240-1.pdf*.

2. Adobe Reader 7.0 or greater should be installed in order to submit the form electronically. Download the software free of charge from the Adobe Web site at: *http://www.adobe.com/products/acrobat/readstep2.html*. (If this free download is accessed, any supplemental items that are not wanted should be unchecked.)

3. If establishment management chooses to submit a paper form by mail, it may obtain a copy of the blank form by printing a blank form from the online version or by contacting the Technical Service Center (TSC) at: USDA/FSIS/OPPED/TSC/PAS, Suite 300 Landmark Center, 1299 Farnam Street, Omaha, NE 68102. Fax: 402–344–5006. Phone: 1–800–233–3935.

4. Establishment management should submit the completed paper form to the address in 3. above.

5. If the establishment is no longer required to file FSIS Form 10,240–1 (e.g., the establishment no longer produces the RTE product for which it had filed the form previously), establishment management should either:

a. Send an e-mail with the message ''No Longer Required to File'' to the e-mail address *RTEform@fsis.usda.gov,* or

b. Write across the front of a blank form ''No Longer Required to File'' and mail to the TSC at the address provided under 3. above.

6. Pursuant to the regulation, the Administrator is requiring each establishment to file, either electronically, by fax, or via mail the new FSIS Form 10,240–1 within 30 days of the date of the meeting.

7. Under the regulation, each establishment is required to continue to submit updates to the form when changes to its production volume or selected alternative occur.

Instructions for completing form 10,240–1 are attached to the form. The additional instructions to assist in completing the form are in Attachment 1 to FSIS Notice 21–07, dated March 8, 2007. The IIC is to provide establishment management with a copy of Attachment 1 to FSIS Notice 21–07.

In a memorandum of meeting, the IIC is to document who was present at the meeting, the date and time of the meeting, what was discussed at the meeting, and any documents that were shared with management. The IIC is to maintain a copy of the memorandum in the official government file and provide a copy to establishment management.

Inspection program personnel are to hold a meeting with establishment management approximately 30 days after the meeting at which the IIC notifies the establishment about completing and submitting the form. At this second meeting, inspection program personnel are to ask the establishment management whether it has completed the revised FSIS Form 10,240–1 and submitted it to FSIS and are to remind establishment management of the need to do so if it has not.

The District Analyst in each District Office will be reviewing the database containing the submitted 10,240–1 forms to verify receipt of forms from establishments that are required to submit them. The TSC will assist districts without a District Analyst.

Any persons with comments on FSIS' decision to make FSIS Form 10,240–1 available and fillable electronically should submit them to the Docket Clerk, whose address is set out at the beginning of this document.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection and recordkeeping requirements under approval number 0583–0132. This notice contains no other paperwork requirements.

E-Government Act Compliance

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

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Notices_Index/*. FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade and farm groups, consumer interest groups, allied health professionals, and other individuals who have asked to be included. The update is available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC, on May 23, 2007.

David P. Goldman,

Acting Administrator.

[FR Doc. E7–10469 Filed 5–30–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Columbus (OH), Farwell (TX), and Northeast Indiana (IN) Areas and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on December 31, 2007. We are asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. We are also asking for comments on the quality of services provided by these currently designated agencies: Columbus Grain Inspection, Inc. (Columbus); Farwell Commodity and Grain Services, Inc. (Farwell); and Northeast Indiana Grain Inspection, Inc. (Northeast Indiana).

DATES: Applications and comments must be received on or before July 2, 2007.

ADDRESSES: We invite you to submit applications and comments on this notice. You may submit applications and comments by any of the following methods:

- Hand Delivery or Courier: Deliver to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250.
- Fax: Send by facsimile transmission to (202) 690–2755, attention: Karen Guagliardo.
- E-mail: Send via electronic mail to *Karen.W.Guagliardo@usda.gov*.
- Mail: Send hardcopy to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov*.

SUPPLEMENTARY INFORMATION: Section 7(f)(1) of the United States Grain Standards Act, as amended (USGSA), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)(1)).

Section 7(g)(1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in Section 7(f) of USGSA.

CURRENT DESIGNATIONS BEING ANNOUNCED FOR RENEWAL

Official agency	Main office	Designation start	Designation end
Columbus	Circleville, OH	1/01/2005	12/31/2007
Farwell	Casa Grande, AZ	1/01/2005	12/31/2007
Northeast Indiana	Decatur, IN	1/01/2005	12/31/2007

Columbus

In accordance with Section 7(f)(2) of USGSA (7 U.S.C. 79(f)(2)) the following geographic area, in the States of Michigan and Ohio, is assigned to Columbus:

In Michigan:

- Bounded on the West by State Route 127 at the Michigan-Ohio State line north to State Route 50;
- Bounded on the north by State Route 50 at State Route 127 east to the Michigan State line; the Michigan state line south to the Michigan-Ohio State line.

In Ohio:

- The northern Ohio State line east to the to the Ohio Pennsylvania State line;
- Bounded on the East by the Ohio-Pennsylvania State line south to the Ohio River;

• Bounded on the South by the Ohio River south-southwest to the western Scioto County line; and

• Bounded on the West by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to Clark County; the northern Clark County line west to State Route 560; State Route 560 north to State Route 296; State Route 296 west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68 (including all of Sidney, Ohio); U.S. Route 68 north to the southern Hancock County line; the southern Hancock County line west to the western Hancock, Wood and Lucus County lines north to the Michigan-Ohio State line; the Michigan-Ohio State line west to State Route 127.

Columbus' assigned geographic area does not include the export port locations inside Columbus' area which are serviced by GIPSA.

Farwell

In accordance with Section 7(f)(2) of USGSA (7 U.S.C. 79(f)(2)), the following geographic area, in the States New Mexico and Texas, is assigned to Farwell:

In New Mexico:

• Bernalillo, Chaves, Curry, DeBaca, Eddy, Guadalupe, Lea, Quay, Roosevelt, San Miguel, Santa Fe, Torrance, and Union Counties, New Mexico.

In Texas:

• Bailey, Cochran, Deaf Smith (west of State Route 214), Hockley, Lamb (south of a line bounded by U.S. Route 70, FM 303, U.S. Route 84, and FM 37), and Parmer Counties, Texas.

Northeast Indiana

In accordance with Section 7(f)(2) of USGSA (7 U.S.C. 79(f)(2)), the following geographic area, in the State of Indiana, is assigned to Northeast Indiana:

• Bounded on the North by the northern Lagrange and Steuben County lines;

• Bounded on the East by the eastern Steuben, De Kalb, Allen, and Adams County lines;

• Bounded on the South by the southern Adams and Wells County lines; and

• Bounded on the West by the western Wells County line; the southern Huntington and Wabash County lines; the western Wabash County line north to State Route 114; State Route 114 northwest to State Route 19; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: E.M.P. Coop, Payne, Paulding County, Ohio (located inside Michigan Grain Inspection Services, Inc.'s, area).

Opportunity for designation

Interested persons, including Columbus, Farwell and Northeast Indiana, may apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of USGSA (7 U.S.C. 79(f)(2)), and 9 CFR 800.196(d) regulations. Designation in the specified geographic areas is for the period beginning January 1, 2008, and ending December 31, 2010. To apply for designation, contact the Compliance Division at the address listed above for forms and information, or obtain applications at the GIPSA Web site, *http://www.gipsa.usda.gov*.

Request for Comments

We are also publishing this notice to provide interested persons the opportunity to present comments on the quality of services provided by the Columbus, Farwell and Northeast Indiana official agencies. In the designation process, we will consider substantive comments citing reasons and pertinent data for support or objection to the designation of the applicants. Submit all comments to the Compliance Division at the above address.

In determining which applicant will be designated, we will consider applications, comments, and other available information.

Authority: 7 U.S.C. 71 *et seq.*

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 07–2719 Filed 5–30–07; 8:45 am]

BILLING CODE 3410–KD–U

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Muncie (IN), Fremont (NE), Savage (MN), and West Lafayette (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: We are announcing designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (USGSA): East Indiana Grain Inspection, Inc. (East Indiana); Fremont Grain Inspection Department, Inc. (Fremont); State Grain Inspection, Inc. (State Grain); and Titus Grain Inspection, Inc. (Titus).

EFFECTIVE DATE: July 1, 2007.

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: In the December 8, 2006, **Federal Register** (71 FR 71122–71124), we requested applications for designation to provide official services in the geographic areas assigned to the official agencies named above. Applications were due by January 8, 2007.

There were two applicants for the Savage area: State Grain and Mid-Iowa Grain Inspection, Inc. (Mid-Iowa); both currently designated official agencies. State Grain and Mid-Iowa applied for all or part of the counties announced in the December 8, 2006, **Federal Register**. GIPSA asked for comments on State Grain and Mid-Iowa in the March 2, 2007, **Federal Register** (72 FR 9502). Comments were due by April 2, 2007. GIPSA received a total of 8 comments by the closing date. We received 3 comments supporting Mid-Iowa for designation: 1 of which were from grain companies in the area and 2 from other official agencies. GIPSA received 5 comments supporting State Grain for designation; 2 of which were from grain companies, 2 from grain industry in the area, and 1 from an exporter.

East Indiana, Fremont, and Titus were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for additional comments on them.

We evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of USGSA (7 U.S.C. 79 (f)) and Section 7(f)(l)(B), determined that East Indiana, Fremont, and Titus are able to provide official services and that State Grain is better able to provide official services in the geographic areas specified in the December 8, 2006, **Federal Register**, for which they applied. These designation actions to provide official services are effective July 1, 2007, and terminate June 30, 2010, for East Indiana, Fremont, and Titus. State Grain is designated for only 18 months, effective July 1, 2007, and terminating December 31, 2008. Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start–end
East Indiana	Muncie, IN, 765–289–1206	7/01/2007–6/30/2010
Fremont	Fremont, NE, 402–721–1270 Additional locations: Denison, IA	7/01/2007–6/30/2010
State Grain	Savage, MN, 952–808–8566	7/01/2007–12/31/2008
Titus	West Lafayette, IN 765–497–2202	7/01/2007–6/30/2010

Authority: 7 U.S.C. 71 *et seq.*

James E. Link,

Administrator , Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 07–2720 Filed 5–30–07; 8:45 am]

BILLING CODE 3410–KD–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funds; Multi-Family Housing, Single Family Housing

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the availability of housing funds for fiscal year (FY) 2007. This action is taken to comply with 42 U.S.C. 1490p, which requires that RHS publish in the **Federal Register** notice of the availability of any housing assistance.

DATES: Unless otherwise indicated below, applications are accepted year-round at a local Rural Development office.

Effective Date: May 31, 2007.

FOR FURTHER INFORMATION CONTACT: For information on applying for assistance, visit our Internet Web site at *http://offices.sc.egov.usda.gov* and select your State. You may also check the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area.

For information regarding this notice contact Myron Wooden, Loan Assistant, Single Family Housing Direct Loan Division, telephone 202–720–4780, for single family housing (SFH) issues and Tammy S. Daniels, Senior Loan Specialist, Multi-Family Housing (MFH) Processing Division, telephone 202–720–0021, for multi-family housing issues, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250. (The telephone numbers listed are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The information in this notice describes how funds for the various Rural Development Housing programs are distributed to the States. Interested applicants are encouraged to contact the local USDA Rural Development office for more information and application information. Please visit *http://offices.sc.egov.usda.gov* for the Rural Development office nearest you.

Programs Affected

The following programs are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. These programs or activities are listed in the Catalog of Federal Domestic Assistance under Nos.

10.405 Farm Labor Housing (LH) Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.411 Rural Housing Site Loans and Self-Help Housing Land Development Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance
10.427 Rural Rental Assistance Payments
10.433 Rural Housing Preservation Grants
10.442 Housing Application Packaging Grants

Discussion of Notice

Part 1940, subpart L of 7 CFR contains the ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' To apply for assistance under these programs or for more information, contact the USDA Rural Development Office for your area.

Multi-Family Housing (MFH)

I. General

A. This provides guidance on MFH funding for the Rural Rental Housing program (RRH) for FY 2007. Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578. For FY 2007, State Directors, under the Rural Housing Assistance Grants (RHAG), will have the flexibility to transfer their initial allocations of budget authority between the Single Family Housing (SFH) Section 504 Rural Housing Grants and Section 533 Housing Preservation Grant (HPG) programs.

B. MFH loan and grant levels for FY 2007 are as follows:

MFH Loan Programs Credit Sales	$1,484,998
Section 514 Farm Labor Housing (LH) loans*	38,116,886
Section 515 Rural Rental Housing (RRH) loans	99,000,000
Section 521 Rental Assistance (RA) and 502(c)(5)(C) Advance	616,020,000
Section 516 LH grants	13,860,000
Sections 525 Technical and Supervisory Assistance grants (TSA) and 509 Housing Application Packaging grants (HAPG) (Shared between single and multi-family housing)	990,000
Section 533 Housing Preservation grants (HPG)**	10,125,728
Section 538 Guaranteed Rural Rental Housing Program	99,000,000
Preservation Revolving Loan Fund Demonstration Program	6,300,769
Section 515 Multi-Family Housing Preservation and Revitalization Restructuring Demonstration (MPR)***	8,910,000
Rural Housing Voucher Program	15,840,000

* Does Not Include Carryover Funds.
** Includes Carryover Funds.
*** State at the budget authority level, rather than at the program level.

II. Funds Not Allocated to States

A. *Credit Sales Authority.* For FY 2007, $1,484,988 will be set aside for credit sales to program and nonprogram buyers. Credit sale funding will not be allocated by State.

B. *Section 538 Guaranteed Rural Rental Housing Program.* Guaranteed loan funds will be made available under a Notice of Funding Availability (NOFA) being published in this **Federal Register**. Additional guidance is provided in the NOFA.

C. *Multi-family Housing Preservation and Revitalization Restructing Demonstration Program (MPR).* The MPR Program is designed to preserve and revitalize Section 515 multi-family rental housing properties. The Program is designed to utilize several demonstration revitalization tools to restructure debt and financing of an aging portfolio of rental properties. The objective is to ensure that properties have sufficient resources to continue providing safe and affordable housing for low-income rural residents.

D. *Rural Housing Voucher Program.* The Rural Housing Voucher Program, authorized under Section 542 of the Housing Act of 1949, is designed to provide tenant protections in properties that prepay their mortgages after September 30, 2005. These Vouchers are portable and will enable tenants to continue to access affordable housing without benefit of the traditional Rental Assistance Program.

III. Farm Labor Housing (LH) Loans and Grants

The Administrator has the authority to transfer the allocation of budget authority between the two programs. Upon NOFA closing the Administrator will evaluate the responses and determine proper distribution of funds between loans and grants.

A. Section 514 Farm LH Loans

1. These loans are funded in accordance with 7 CFR 1940.579(a).

FY 2007 Appropriation	$38,116,886
Available for Off-Farm Loans	31,937,082
Available for On-Farm Loans	2,000,000
National Office Reserve	4,179,804

2. Off-farm loan funds will be made available under a NOFA being published in this **Federal Register**. Additional guidance is provided in the NOFA.

B. Section 516 Farm LH Grants

1. Grants are funded in accordance with 7 CFR 1940.579(b). Unobligated prior year balances and cancellations will be added to the amount shown.

FY 2007 Appropriation	$13,860,000
Available for LH Grants for Off-Farm	10,491,000
National Office Reserve	3,369,960

2. Labor Housing grant funds for Off-Farm will be made available under a NOFA being published in this **Federal Register**. Additional guidance is provided in the NOFA.

C. Labor Housing Rental Assistance (RA) will be held in the National Office for use with LH loan and grant applications. RA is only available with a LH loan of at least 5 percent of the total development cost. Projects without a LH loan cannot receive RA.

IV. Section 515 RRH Loan Funds

FY 2007 Section 515 Rural Rental Housing allocation (Total)	$99,000,000
New Construction funds and set-asides	25,740,000
New construction loans	8,234,537
Set-aside for nonprofits	8,910,000
Set-aside for underserved counties and colonias	4,950,000
Earmark for EZ, EC, or REAP Zones	2,655,463
State RA designated reserve	990,000
Rehab and repair funds and equity	53,460,000
Rehab and repair loans	48,510,000
Designated equity loan reserve	4,950,000
General Reserve	19,800,000

A. *New Construction Loan Funds.* New construction loan funds will be made available using a national NOFA being published in this **Federal Register**. Additional guidance is provided in the NOFA.

B. *National Office New Construction Set-asides.* The following legislatively mandated set-asides of funds are part of the National office set-aside:

1. *Nonprofit Set-aside.* An amount of $8,234,537 has been set aside for nonprofit applicants. All Nonprofit loan proposals must be located in designated places as defined in 7 CFR part 3560.

2. *Underserved Counties and Colonias Set-Aside.* An amount of $4,950,000 has been set aside for loan requests to develop units in the underserved 100 most needy counties or colonias as defined in section 509(f) of the Housing Act of 1949 as amended. Priority will be given to proposals to develop units in colonias or tribal lands.

3. *EZ, EC or REAP Zone Earmark.* An amount of $2,655,463 has been earmarked for loan requests to develop units in EZ or EC communities or REAP Zones until June 30, 2007.

C. *Designated Reserves for State RA.* An amount of $990,000 of Section 515 loan funds has been set aside for matching with projects in which an active State sponsored RA program is available. The State RA program must be comparable to the RHS RA program.

D. *Repair and Rehabilitation Loans.* All funds will be held in the National office and will be distributed based upon rehabilitation needs to projects selected and processed under the FY 2007 MPR NOFA.

E. *Designated Reserve for Equity Loans.* An amount of $4,950,000 has been designated for the equity loan preservation incentive described in 7 CFR part 3560. The $4,950,000 will be further divided into $4 million for equity loan requests currently on the pending funding list and $950,000 to facilitate the transfer of properties from for-profit owners to nonprofit corporations and public bodies. Funds for such transfers would be authorized only for for-profit owners who are currently on the pending funding list who agree to transfer to nonprofit corporations or public bodies rather than to remain on the pending list. If insufficient transfer requests are generated to utilize the full $1 million set aside for nonprofit and public body transfers, the balance will revert to the

existing pending equity loan funding list.

F. *General Reserve.* There is one general reserve fund of $19,800,000.

V. Section 533 HPG

Total Available (Includes carryover funds)	$10,125,728
Less General Reserve	1,012,572
Less Earmark for EZ, EC or REAP Zones	594,000
Total Available for Distribution	8,519,155

Amount available for allocation. (See end of this Notice for HPG State allocations.) Fund availability will be announced in a NOFA being published in the **Federal Register**.

The amount of $594,000 is earmarked for EZ, EC or REAP Zones until June 30, 2007.

Single Family Housing (SFH)

I. General

All SFH programs are administered through field offices. For more information or to make application, please contact the Rural Development office servicing your area. To locate these offices, contact the appropriate State Office from the attached State Office listing, visit our Web site at *http://offices.usda.gov* or check the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area.

A. This notice provides SFH allocations for FY 2007. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568. Information on basic formula criteria, data source and weight, administrative allocation, pooling of funds, and availability of the allocation are located on a chart at the end of this notice.

B. The SFH levels authorized for FY 2007 are as follows:

Section 502 Guaranteed Rural Housing (RH) loans:	
Nonsubsidized Guarantees—Purchase	**$3,439,396,529
Nonsubsidized Guarantees—Refinance	** 204,827,600
Section 502 Direct RH loans	* 1,129,390,957
Credit sales (Nonprogram)	10,000,000
Section 504 Housing repair loans	*34,651,692
Section 504 Housing repair grants	*/**29,601,000
Section 509 Compensation for construction defects	99,000
Section 523 Mutual and self-help housing grants	*/**33,660,000
Section 523 Self-Help Site Loans	4,998,056
Section 524 RH site loans	5,000,000
Section 306C Water and waste disposal grants	**1,000,000
Section 525 Supervisory and technical:	
Assistance and Section 509 Housing Application Packaging Grants	
Total Available for single and multi-family section 525	**$ 990,000

* Includes funds for EZ/EC and REAP communities until June 30, 2007.
** Carryover funds are not included in the balance.

C. *SFH Funding Not Allocated to States.* The following funding is not allocated to States by formula. Funds are made available to each state on a case-by-case basis.

1. *Credit sale authority.* Credit sale funds in the amount of $10,000,000 are available only for nonprogram sales of Real Estate Owned (REO) property.

2. *Section 509 Compensation for Construction Defects.* $99,000 is available for compensation for construction defects.

3. *Section 523 Mutual and Self-Help Technical Assistance Grants.* $33,660,000 is available for Section 523 Mutual and Self-Help Technical Assistance Grants. Of these funds, $990,000 is earmarked for EZ, EC or REAP Zones until June 30, 2007. A technical review and analysis must be completed by the Technical and Management Assistance (T&MA) contractor on all predevelopment, new, and existing (refunding) grant applications.

4. *Section 523 Mutual and Self-Help Site Loans and Section 524 RH Site Loans.* $4,998,056 and $5,000,000 are available for Section 523 Mutual Self-Help and Section 524 RH Site loans, respectively.

5. *Section 306C WWD Grants to Individuals in Colonias.* The objective of the Section 306C WWD individual grant program is to facilitate the use of community water or waste disposal systems for the residents of the colonias along the U.S.-Mexico border.

The total amount available to Arizona, California, New Mexico, and Texas will be $1,000,000 for FY 2007. This amount is transferred from the Rural Utilities Service (RUS) to RHS for processing individual grant applications.

6. *Section 525 Technical and Supervisory Assistance (TSA) and Section 509 Housing Application Packaging Grants (HAPG).* $990,000 is available for the TSA and HAPG programs. Funds for TSA grants will be made through a separate NOFA.

Requests should be submitted to the National Office for HAPG based on projected usage of these funds for the quarter or as needed. HAPG requests should be submitted by e-mail to Gloria Denson, Senior Loan Specialist, SFH Direct Loan Division, 202–720–1487. Reserve funds will be held at the National Office and requests from eligible States will be considered on a first-come, first-served basis. Additional guidance is provided in the NOFA.

7. *Natural Disaster Funds.* Funds are available until exhausted to those States with active Presidential Declarations.

II. State Allocations

A. Section 502 Nonsubsidized Guaranteed RH (GRH) Loans

1. *Purchase—Amount Available for Allocation*

Total Available—Purchase	$3,439,396,529
Less National Office General Reserve	1,148,233,612
Less Special Outreach Area Reserve	492,100,119
Basic Formula—Administrative Allocation	1,799,062,798

a. *National Office General Reserve.* The Administrator may restrict access to this reserve for States not meeting their goals in special outreach areas.

b. *Special Outreach Areas.* FY 2007 GRH funding is allocated to States in two funding streams. Seventy percent of GRH funds may be used in any eligible area. Thirty percent of GRH funds are to be used in special outreach areas. Special outreach areas for the GRH program are defined as those areas within a State that are *not* located within a metropolitan statistical area (MSA).

c. *National Office Special Area Outreach Reserve.* A special outreach area reserve fund has been established at the National office. Funds from this reserve may only be used in special outreach areas.

2. *Refinance—Amount Available for Allocation*

Total Available—Refinance	$204,827,600
Less National office general reserve	99,000,000
Basic formula—Administrative Allocation	0

a. *Refinance Funds.* Refinance loan funds will be distributed from the National Office on a case-by-case basis.

b. *National Office General Reserve.* The Administrator may restrict access to this reserve for States not meeting their goals in special outreach areas.

B. Section 502 Direct RH Loans

1. *Amount Available for Allocation*

Total Available	$1,129,390,957
Less Required Set Aside for Underserved Counties and Colonias	56,469,548
EZ, EC and REAP Earmark	10,857,427
Less General Reserve	170,939,096
Administrator's Reserve	32,939,096
Hardships & Homelessness	2,000,000
Rural Housing Demonstration Program	1,000,000
Homeownership Partnership	110,000,000
Program funds for the sale of REO properties	25,000,000
Less Designated Reserve for Self-Help	175,000,000
Basic Formula Administrative Allocation	716,124,885

2. *Reserves*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to fund the following applications:

(i) Hardship and homeless applicants including the direct Section 502 loan and Section 504 loan and grant programs.

(ii) Rural Home Loan Partnerships (RHLP) and Community Development Financial Institutions (CDFI) loans.

(iii) States will leverage with funding from other sources.

(iv) Areas targeted by the State according to its strategic plan.

b. *National Office Reserves.*

(i) General Reserve. The National office has a general reserve of $170.9 million. Of this amount, the Administrator's reserve is $32,939,096. One of the purposes of the Administrator's reserve will be for loans in Indian Country. Indian Country consists of land inside the boundaries of Indian reservations, communities made up mainly of Native Americans, Indian trust and restricted land, and tribal allotted lands. Another purpose of the reserve will be to provide funding for subsequent loans for essential improvements or repairs and transfers with assumptions. The Administrator's reserve may also be made available to States beginning in the 3rd Quarter when demand for funds is unusually high.

(ii) Hardship and Homelessness Reserve. $2 million has been set aside for hardships and homeless.

(iii) Rural Housing Demonstration Program. $1 million dollars has been set aside for innovative demonstration initiatives.

(iv) Program Credit Sales. $25 million dollars has been set aside for program sales of REO property.

c. *Homeownership Partnership.* $110 million dollars has been set aside for Homeownership Partnerships. These funds will be used to expand existing partnerships and create new partnerships, such as the following:

(i) Department of Treasury, Community Development Financial Institutions (CDFI). Funds will be available to fund leveraged loans made in partnership with the Department of Treasury CDFI participants.

(ii) Partnership initiatives established to carry out the objectives of the rural home loan partnership (RHLP).

d. *Designated Reserve for Self-Help.* $175 million dollars has been set aside to assist participating Self-Help applicants. The National office will contribute 100 percent from the National office reserve. States are not required to contribute from their allocated Section 502 RH funds.

e. *Underserved Counties and Colonias.* An amount of $56,469,548 has

been set aside for the 100 underserved counties and colonias.

f. *Empowerment Zone (EZ), Enterprise Community (EC) or Rural Economic Area Partnership (REAP) earmark.* An amount of $10,857,427 has been earmarked until June 30, 2007, for loans in EZ, EC or REAP Zones.

g. *State Office Pooling.* If pooling is conducted within a State, it must not take place within the first 30 calendar days of the first, second, or third quarter. (There are no restrictions on pooling in the fourth quarter.)

h. *Suballocation by the State Director.* The State Director may suballocate to each area office using the methodology and formulas required by 7 CFR part 1940, subpart L. If suballocated to the area level, the Rural Development Manager will make funds available on a first-come, first-served basis to all offices at the field or area level. No field office will have its access to funds restricted without the prior written approval of the Administrator.

B. *Section 504 Housing Loans and Grants.* Section 504 grant funds are included in the Rural Housing Assistance Grant program (RHAG) in the FY 2007 appropriation.

1. *Amount Available for Allocation*

Section 504 Loans

Total Available	$34,651,692
Less 5% for 100 Underserved Counties and Colonias	1,732,584
EZ, EC or REAP Zone Earmark	586,294
Less General Reserve	733,915
Basic Formula—Administrative Allocation	31,598,899

Section 504 Grants

Total Available	$29,601,000
Less 5% for 100 Underserved Counties and Colonias	1,450,350
EZ, EC or REAP Zone Earmark	594,000
Less General Reserve	1,649,895
Basic Formula—Administrative Allocation	25,906,755

2. *Reserves and Set-asides*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to handle all anticipated hardship applicants based upon historical data and projected demand.

b. *Underserved Counties and Colonias.* $1,732,584 and $1,450,350 have been set aside for the 100 underserved counties and colonias until June 30, 2007, for the Section 504 loan and grant programs, respectively.

c. *Empowerment Zone (EZ) and Enterprise Community (EC) or Rural Economic Area Partnership (REAP) Earmark (Loan Funds Only).* $586,294 and $594,000 have been earmarked through June 30, 2007, for EZ, EC or REAPs for the Section 504 loan and grant programs, respectively.

d. *General Reserve.* $733,915 for Section 504 loan hardships and $1,649,895 for Section 504 grant extreme hardships have been set-aside in the general reserve. For Section 504 grants, an extreme hardship case is one requiring a significant priority in funding, ahead of other requests, due to severe health or safety hazards, or physical needs of the applicant.

Information on Basic Formula Criteria, Data Source and Weight, Administrative Allocation, Pooling of Funds, and Availability of the Allocation

#	DESCRIPTION	SECTION 502 NONSUBSIDIZED GUARANTEED RH LOANS	SECTION 502 DIRECT RH LOANS	SECTION 504 LOANS AND GRANTS
1	Basic formula criteria, data source, and weight	See 7 CFR 1940.563(b)	See 7 CFR 1940.565(b)	See 7 CFR 1940.566(b) and 1940.567(b)
2	Administrative Allocation:			
	Western Pacific Area	$4,000,000	$2,000,000	$500,000 loan $500,000 grant
3	Pooling of funds:			
	a. Mid- year pooling	If necessary	If necessary	If necessary
	b. Year-end pooling	August 11, 2007	July 12, 2007	July 12, 2007
	c. Underserved counties & colonias	N/A	June 30, 2007	June 30, 2007
	d. EZ, EC or REAP	N/A	June 30, 2007	June 30, 2007
	e. Credit sales	N/A	June 30, 2007	N/A
4	Availability of the allocation:			
	a. first quarter	40 percent	50 percent	50 percent
	b. second quarter	70 percent	75 percent	75 percent
	c. third quarter	90 percent	100 percent	100 percent
	d. fourth quarter	100 percent	100 percent	100 percent

1. Data derived from the 2000 U.S. Census is available on the Web at *http://census.sc.egov.usda.gov.*

2. Due to the absence of Census data.

3. All dates are tentative and are for the close of business (COB). Pooled funds will be placed in the National office reserve and made available administratively. The Administrator reserves the right to redistribute funds based upon program performance.

4. Funds will be distributed cumulatively through each quarter listed until the National office year-end pooling date.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue SW., Washington DC 20250–9410, or call toll free, (866) 632–9992 (Voice). TDD users can contact USDA through local relay (800) 720–6382 (TDD) or (866) 377–8642 (relay voice users). USDA is an equal opportunity provider and employer.

Dated: May 23, 2007.

Thomas E. Hannah,

Acting Administrator, Rural Housing Service.

BILLING CODE 3410–XV–U

RURAL HOUSING SERVICE FY 2007
SECTION 533
HOUSING PRESERVATION GRANT
ALLOCATION IN THOUSANDS

STATE	FORMULA FACTOR	TOTAL ALLOCATION
ALABAMA	0.02957	251,911.42
ALASKA	0.00587	50,007.44
ARIZONA	0.01780	151,640.96
ARKANSAS	0.02310	196,792.49
CALIFORNIA	0.04653	396,396.29
COLORADO	0.00840	71,560.90
DELAWARE	0.00190	16,186.39
MARYLAND	0.00880	74,968.57
FLORIDA	0.02890	246,203.59
VIRGIN ISLANDS	0.00273	23,257.29
GEORGIA	0.03867	329,435.73
HAWAII	0.00790	67,301.33
WPA	0.00647	55,118.93
IDAHO	0.00743	63,297.32
ILLINOIS	0.02250	191,680.99
INDIANA	0.02157	183,758.18
IOWA	0.01340	114,156.68
KANSAS	0.01130	96,266.45
KENTUCKY	0.03483	296,722.18
LOUISIANA	0.03170	270,057.22
MAINE	0.00913	77,779.89
MASSACHUSETTS	0.00793	67,556.90
CONNECTICUT	0.00453	38,591.77
RHODE ISLAND	0.00100	8,519.16
MICHIGAN	0.02977	253,615.25
MINNESOTA	0.01673	142,525.47
MISSISSIPPI	0.03180	270,909.14
MISSOURI	0.02460	209,571.22
MONTANA	0.00620	52,818.76
NEBRASKA	0.00713	60,741.58
NEVADA	0.00263	22,405.38
NEW JERSEY	0.00657	55,970.85
NEW MEXICO	0.01437	122,420.26
NEW YORK	0.02753	234,532.34
NORTH CAROLINA	0.04497	383,106.41
NORTH DAKOTA	0.00413	35,184.11
OHIO	0.03450	293,910.85
OKLAHOMA	0.01917	163,312.21
OREGON	0.01423	121,227.58
PENNSYLVANIA	0.03687	314,101.25
PUERTO RICO	0.04923	419,398.01
SOUTH CAROLINA	0.02690	229,165.27
SOUTH DAKOTA	0.00597	50,859.36
TENNESSEE	0.02973	253,274.48
TEXAS	0.07645	651,289.42
UTAH	0.00430	36,632.37
VERMONT	0.00403	34,332.20
NEW HAMPSHIRE	0.00503	42,851.35
VIRGINIA	0.02660	226,609.53
WASHINGTON	0.01743	148,488.88
WEST VIRGINIA	0.01937	165,016.04
WISCONSIN	0.01873	159,563.78
WYOMING	0.00307	26,153.81
DISTR.	1.00000	8,519,155.20
N/O RES.		1,012,572.80
EZ/EC/REAP		594,000.00
TTL AVAIL.		10,125,728.00

USDA Rural Development State Office Locations
State Directors / Rural Housing Program Directors

ALABAMA	ALASKA	ARIZONA
Steve Pelham	Chad Padgett, Acting	Eddie Browning
Sterling Centre	Suite 201	Phoenix Courhouse and Federal Bldg.
4121 Carmichael Road, Suite 601	800 W Evergreen	230 North First Ave., Suite 206
Montgomery, AL 36106-3683	Palmer, AK 99645-6539	Phoenix, AZ 25003-1706
(334) 279-3400	(907) 761-7705	(602) 280-8755
ARKANSAS	**CALIFORNIA**	**COLORADO**
Roy Smith	Benjamin Higgins	Mike Bennett
Room 3416	Agency 4169	Room E100
700 W Capitol	430 G Street	655 Parfet Street
Little Rock, AR 72201-3225	Davis, CA 95616-4169	Lakewood, CO 80215
(501) 301-3200	(530) 792-5800	(720) 544-2903
DELAWARE & MARYLAND	**FLORIDA & VIRGIN ISLANDS**	**GEORGIA**
Marlene B. Elliott	Charles W. Clemons, Sr.	F. Stone Workman
1221 College Park Drive	PO Box 147010	Stephens Federal Building
Suite 200	4440 NW 25th Place	355 E Hancock Avenue
Dover, DE 19904	Gainesville, FL 32606-6563	Athens, GA 30601-2768
(302) 857-3625	(352) 338-3465	(706) 546-2162
HAWAII	**IDAHO**	**ILLINOIS**
Lorraine Shin	Michael A. Field	Douglas Wilson
Room 311, Federal Building	Suite A1	2118 W. Park Court
154 Waianuenue Avenue	9173 W Barnes Dr	Suite A
Hilo, HI 96720	Boise, ID 83709	Champaign, IL 61821
(808) 933-8309	(208) 378-5600	(217) 403-6222
INDIANA	**IOWA**	**KANSAS**
Robert White	Mark Reisinger	Charles (Chuck) R. Banks
5975 Lakeside Boulevard	873 Federal Bldg	1303 SW First American Place
Indianapolis, IN 46278	210 Walnut Street	Suite 100
(317) 290-3100	Des Moines, IA 50309	Topeka, KS 66604-4040
	(515) 284-4663	(785) 271-2700
KENTUCKY	**LOUISIANA**	**MAINE**
Kenneth Slone	Clyde C. Holloway	Michael W. Aube
771 Corporate Drive, Suite 200	3727 Government Street	967 Illinois Avenue, Suite 4
Lexington, KY 40503	Alexandria, LA 71302	Bangor, ME 04402-0405
(859) 224-7322	(318) 473-7920	(207) 990-9118

USDA Rural Development State Office Locations
State Directors / Rural Housing Program Directors

MASSACHUSETTS//CT/RI	MICHIGAN	MINNESOTA
David H. Tuttle	Gene DeRossett	Stephen G. Wenzel
451 West Street	3001 Coolidge Road, Suite 200	410 AgriBank Bldg.
Amherst, MA 01002	East Lansing, MI 48823	375 Jackson Street
(413) 253-4300	(517) 324-5100	St. Paul, MN 55101-1853
		(651) 602-7792
MISSISSIPPI	**MISSOURI**	**MONTANA**
John Rounsaville	Gregory Branum	Clark Johnson
Federal Bldg., Suite 831	Parkade Center, Suite 235	Suite B
100 W. Capitol Street	601 Business Loop 70 West	900 Technology Boulevard
Jackson, MS 39269	Columbia, MO 65203	Bozeman, MT 59715
(601) 965-4325	(573) 876-9301	(406) 585-2551
NEBRASKA	**NEVADA**	**NEW JERSEY**
Scot Blehm	Larry J. Smith	Andrew M.G. Law
Federal Bldg., Room 152	1390 South Curry Street	5th Floor N. Suite 500
100 Centennial Mall N	Carson City, NV 89703	8000 Midlantic Drive
Lincoln, NE 68508	(775) 887-1222	Mt. Laurel, NJ 08054
(402) 437-5551		(856) 787-7700
NEW MEXICO	**NEW YORK**	**NORTH CAROLINA**
Ryan Gleason	Patrick Brennan	John Cooper
Room 255	The Galleries of Syracuse	Suite 260
6200 Jefferson Street, NE	441 S. Salina Street, Suite 357	4405 Bland Road
Albuquerque, NM 87109	Syracuse, NY 13202-2541	Raleigh, NC 27609
(505) 761-4973	(315) 477-6417	919-873-2000
NORTH DAKOTA	**OHIO**	**OKLAHOMA**
Clare Carlson	Randall Hunt	Brent J. Kisling
Federal Bldg., Room 208	Federal Bldg., Room 507	Suite 108
220 East Rooser, P.O. Box 1737	200 N. High Street	100 USDA
Bismarck, ND 58502-1737	Columbus, OH 43215-2477	Stillwater, OK 74074-2654
(701) 530-2061	(614) 255-2500	(405) 742-1000
OREGON	**PENNSYLVANIA**	**PUERTO RICO**
Mark Simmons	Gary Groves	Jose Otero-Garcia
Suite 1410	Suite 330	IBM Building, Suite 601
101 SW Main	One Credit Union Place	654 Munoz Rivera Avenue
Portland, OR 97204-3222	Harrisburg, PA 17110-2996	Hato Rey, PR 00918
(503) 414-3300	(717) 237-2299	(787) 766-5095

USDA Rural Development State Office Locations
State Directors / Rural Housing Program Directors

SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE
Tee Miller	Tim Potts, Acting	Mary (Ruth) Tackett
Strom Thurmond Federal Bldg	Federal Bldg, Room 210	Suite 300
1835 Assembly Street, Room 1007	200 Fourth Street, SW	3322 W End Avenue
Columbia, SC 29201	Huron, SD 57350	Nashville, TN 37203-1084
(803) 765-5163	(605) 352-1100	(615) 783-1300
TEXAS	**UTAH**	**VERMONT & NEW HAMPSHIRE**
R. Bryan Daniel	John R. Cox	Jolinda H. LaClair
Federal Bldg, Suite 102	Wallace F Bennett Federal Bldg	City Center, 3rd Floor
101 S Main	125 S State Street, Room 4311	89 Main Street
Temple, TX 76501	Salt Lake City, UT 84147	Montpelier, VT 05602
(254) 742-9700	(801) 524-4320	(802) 828-6000
VIRGINIA	**WASHINGTON**	**WEST VIRGINIA**
Ellen M.Davis	Jon DeVaney	Robert Steptoe
1606 Santa Rosa Road	Suite B	Federal Bldg, Room 320
Suite 238	1835 Black Lake Blvd, SW	75 High Street
Richmond, VA 23229-5014	Olympia, WA 98512-5715	Morgantown, WV 26505-7500
(804) 287-1598	(360) 704-7740	(304) 284-4860
WISCONSIN	**WYOMING**	
Frank Frassetto	Del Tinsley	
4949 Kirschling Court	Federal Building, Room 1005	
Stevens Point, WI 54481	100 East B, PO Box 820	
(715) 345-7600	Casper, WY 82602	
	(307) 233-6700	

RURAL HOUSING SERVICE
ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

	STATE	STATE BASIC FORMULA FACTOR	TOTAL FY 2007 ALLOCATION
1	ALABAMA	0.02893348	$18,523
60	ALASKA	0.00623983	$7,132
2	ARIZONA	0.01551438	$11,787
3	ARKANSAS	0.02202430	$15,055
4	CALIFORNIA	0.04281159	$25,489
5	COLORADO	0.01225178	$10,150
6	CONNECTICUT	0.00445853	$6,238
7	DELAWARE	0.00293815	$5,475
9	FLORIDA	0.02769317	$17,900
10	GEORGIA	0.03803061	$23,089
61	HAWAII	0.00623301	$7,129
12	IDAHO	0.00847438	$8,254
13	ILLINOIS	0.02627571	$17,189
15	INDIANA	0.02616726	$17,134
16	IOWA	0.01764334	$12,856
18	KANSAS	0.01336777	$10,710
20	KENTUCKY	0.02807301	$18,091
22	LOUISIANA	0.02361424	$15,853
23	MAINE	0.01109070	$9,567
24	MARYLAND	0.01010209	$9,071
25	MASSACHUSETTS	0.00622585	$7,365
26	MICHIGAN	0.03579346	$21,966
27	MINNESOTA	0.02361828	$15,855
28	MISSISSIPPI	0.02636473	$17,233
29	MISSOURI	0.02809053	$18,100
31	MONTANA	0.00738806	$7,708
32	NEBRASKA	0.00953784	$8,787
33	NEVADA	0.00339314	$5,703
34	NEW HAMPSHIRE	0.00666198	$7,344
35	NEW JERSY	0.00551402	$6,995
36	NEW MEXICO	0.01296637	$10,508
37	NEW YORK	0.03378933	$20,960
38	NORTH CAROLINA	0.05148079	$29,840
40	NORTH DAKOTA	0.00469453	$6,356
41	OHIO	0.03725173	$22,698
42	OKLAHOMA	0.02019475	$14,137
43	OREGON	0.01654303	$12,304
44	PENNSYLVANIA	0.04269918	$25,432
63	PUERTO RICO	0.00884495	$11,343
45	RHODE ISLAND	0.00090026	$4,477
46	SOUTH CAROLINA	0.02669849	$17,401
47	SOUTH DAKOTA	0.00705037	$7,539
48	TENNESSEE	0.03062418	$19,371
49	TEXAS	0.07365688	$40,971
52	UTAH	0.00500465	$6,512
53	VERMONT	0.00579860	$6,911
64	VIRGIN ISLANDS	0.00217552	$5,092
54	VIRGINIA	0.02711459	$17,610
56	WASHINGTON	0.01939199	$13,734
62	WEST PAC ISLANDS	0.00239453	$2,000
57	WEST VIRGINIA	0.01591004	$11,986
58	WISCONSIN	0.02634031	$17,221
59	WYOMING	0.00393497	$5,975
	STATE TOTALS		$716,125
	100 UNDERSERVED COUNTIES/COLONIAS		$56,470
	EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY EARMARK		$10,857
	GENERAL RESERVE		$170,939
	SELF HELP		$175,000
	TOTAL		$1,129,391

RURAL HOUSING SERVICE
FISCAL YEAR 2007
ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

	STATE	TOTAL FY 2007 ALLOCATION	VERY LOW INCOME ALLOCATION 50 PERCENT	LOW INCOME ALLOCATION 50 PERCENT
1	ALABAMA	$18,523	$9,262	$9,262
60	ALASKA	$7,132	$3,566	$3,566
2	ARIZONA	$11,787	$5,894	$5,894
3	ARKANSAS	$15,055	$7,528	$7,528
4	CALIFORNIA	$25,489	$12,745	$12,745
5	COLORADO	$10,150	$5,075	$5,075
6	CONNECTICUT	$6,238	$3,119	$3,119
7	DELAWARE	$5,475	$2,738	$2,738
9	FLORIDA	$17,900	$8,950	$8,950
10	GEORGIA	$23,089	$11,545	$11,545
61	HAWAII	$7,129	$3,565	$3,565
12	IDAHO	$8,254	$4,127	$4,127
13	ILLINOIS	$17,189	$8,595	$8,595
15	INDIANA	$17,134	$8,567	$8,567
16	IOWA	$12,856	$6,428	$6,428
18	KANSAS	$10,710	$5,355	$5,355
20	KENTUCKY	$18,091	$9,046	$9,046
22	LOUISIANA	$15,853	$7,927	$7,927
23	MAINE	$9,567	$4,784	$4,784
24	MARYLAND	$9,071	$4,536	$4,536
25	MASSACHUSETTS	$7,365	$3,683	$3,683
26	MICHIGAN	$21,966	$10,983	$10,983
27	MINNESOTA	$15,855	$7,928	$7,928
28	MISSISSIPPI	$17,233	$8,617	$8,617
29	MISSOURI	$18,100	$9,050	$9,050
31	MONTANA	$7,708	$3,854	$3,854
32	NEBRASKA	$8,787	$4,394	$4,394
33	NEVADA	$5,703	$2,852	$2,852
34	NEW HAMPSHIRE	$7,344	$3,672	$3,672
35	NEW JERSY	$6,995	$3,498	$3,498
36	NEW MEXICO	$10,508	$5,254	$5,254
37	NEW YORK	$20,960	$10,480	$10,480
38	NORTH CAROLINA	$29,840	$14,920	$14,920
40	NORTH DAKOTA	$6,356	$3,178	$3,178
41	OHIO	$22,698	$11,349	$11,349
42	OKLAHOMA	$14,137	$7,069	$7,069
43	OREGON	$12,304	$6,152	$6,152
44	PENNSYLVANIA	$25,432	$12,716	$12,716
63	PUERTO RICO	$11,343	$5,672	$5,672
45	RHODE ISLAND	$4,477	$2,239	$2,239
46	SOUTH CAROLINA	$17,401	$8,701	$8,701
47	SOUTH DAKOTA	$7,539	$3,770	$3,770
48	TENNESSEE	$19,371	$9,686	$9,686
49	TEXAS	$40,971	$20,486	$20,486
52	UTAH	$6,512	$3,256	$3,256
53	VERMONT	$6,911	$3,456	$3,456
64	VIRGIN ISLANDS	$5,092	$2,546	$2,546
54	VIRGINIA	$17,610	$8,805	$8,805
56	WASHINGTON	$13,734	$6,867	$6,867
62	WEST PAC ISLANDS	$2,000	$1,000	$1,000
57	WEST VIRGINIA	$11,986	$5,993	$5,993
58	WISCONSIN	$17,221	$8,611	$8,611
59	WYOMING	$5,975	$2,988	$2,988
	STATE TOTALS	$716,125	$358,062	$358,062
	100 UNDERSERVED COUNTIES/COLONIAS	$56,470	$28,235	$28,235
	EZ/EC/REAP RESERVE	$10,857	$5,429	$5,429
	GENERAL RESERVE	$170,939	$85,470	$85,470
	SELF HELP	$175,000	$87,500	$87,500
	TOTAL	$1,129,391	$564,695	$564,695

(00-00-00) SPECIAL PN

RURAL HOUSING SERVICE
FISCAL YEAR 2007
ALLOCATION IN ACTUAL DOLLARS
SECTION 502 GUARANTEED PURCHASE LOANS (NONSUBSIDIZED)

STATE	STATE BASIC FORMULA FACTOR	TOTAL FY 2007 ALLOCATION
Alabama	0.02657575	$47,836,350
Alaska	0.00722325	$13,001,850
Arizona	0.01640900	$29,536,200
Arkansas	0.02282102	$41,077,836
California	0.05030996	$90,557,928
Colorado	0.01357525	$24,435,450
Connecticut	0.00408986	$7,361,748
Delaware	0.00276106	$4,969,908
Florida	0.02650361	$47,706,498
Georgia	0.03793281	$68,279,058
Hawaii	0.00796215	$14,331,870
Idaho	0.00888491	$15,992,838
Illinois	0.02591265	$46,642,770
Indiana	0.02361952	$42,515,136
Iowa	0.01674764	$30,145,752
Kansas	0.01333450	$24,002,100
Kentucky	0.02667768	$48,019,824
Louisiana	0.02306785	$41,522,130
Maine	0.01154316	$20,777,688
Maryland	0.00944838	$17,007,084
Massachusetts	0.00620846	$11,175,228
Michigan	0.03318174	$59,727,132
Minnesota	0.02265572	$40,780,296
Mississippi	0.02650848	$47,715,264
Missouri	0.02830414	$50,947,452
Montana	0.00778549	$14,013,882
Nebraska	0.00963559	$17,344,062
Nevada	0.00373060	$6,715,080
New Hampshire	0.00696793	$12,542,274
New Jersey	0.00489407	$8,809,326
New Mexico	0.01349689	$24,294,402
New York	0.03640605	$65,530,890
North Carolina	0.05076681	$91,380,258
North Dakota	0.00440032	$7,920,576
Ohio	0.03518978	$63,341,604
Oklahoma	0.02008600	$36,154,800
Oregon	0.01909631	$34,373,358
Pennsylvania	0.04089133	$73,604,394
Puerto Rico	0.00919939	$16,558,902
Rhode Island	0.00075627	$1,361,286
South Carolina	0.02526494	$45,476,892
South Dakota	0.00751015	$13,518,270
Tennessee	0.02902148	$52,238,664
Texas	0.07276234	$130,972,212
Utah	0.00510515	$9,189,270
Vermont	0.00663633	$11,945,394
Virgin Islands	0.00306743	$5,521,374
Virginia	0.02554389	$45,979,002
Washington	0.02205374	$39,696,732
West Pac	N/A	$4,000,000
West Virginia	0.01502432	$27,043,776
Wisconsin	0.02575423	$46,357,614
Wyoming	0.00395173	$7,113,114
STATE TOTALS		$1,799,062,798
GENERAL RESERVE		$1,148,233,612
SPECIAL OUTREACH AREAS RESERVE		$492,100,119
TOTAL		$3.439.396.529

RURAL HOUSING SERVICE
FISCAL YEAR 2007
ALLOCATION IN ACTUAL DOLLARS
SECTION 502 GUARANTEED REFINANCE LOANS (NONSUBSIDIZED)

STATE	STATE BASIC FORMULA FACTOR	TOTAL FY 2007 ALLOCATION
Alabama	N/A	$0
Alaska	N/A	$0
Arizona	N/A	$0
Arkansas	N/A	$0
California	N/A	$0
Colorado	N/A	$0
Connecticut	N/A	$0
Delaware	N/A	$0
Florida	N/A	$0
Georgia	N/A	$0
Hawaii	N/A	$0
Idaho	N/A	$0
Illinois	N/A	$0
Indiana	N/A	$0
Iowa	N/A	$0
Kansas	N/A	$0
Kentucky	N/A	$0
Louisiana	N/A	$0
Maine	N/A	$0
Maryland	N/A	$0
Massachusetts	N/A	$0
Michigan	N/A	$0
Minnesota	N/A	$0
Mississippi	N/A	$0
Missouri	N/A	$0
Montana	N/A	$0
Nebraska	N/A	$0
Nevada	N/A	$0
New Hampshire	N/A	$0
New Jersey	N/A	$0
New Mexico	N/A	$0
New York	N/A	$0
North Carolina	N/A	$0
North Dakota	N/A	$0
Ohio	N/A	$0
Oklahoma	N/A	$0
Oregon	N/A	$0
Pennsylvania	N/A	$0
Puerto Rico	N/A	$0
Rhode Island	N/A	$0
South Carolina	N/A	$0
South Dakota	N/A	$0
Tennessee	N/A	$0
Texas	N/A	$0
Utah	N/A	$0
Vermont	N/A	$0
Virgin Islands	N/A	$0
Virginia	N/A	$0
Washington	N/A	$0
West Pac	N/A	$0
West Virginia	N/A	$0
Wisconsin	N/A	$0
Wyoming	N/A	$0
STATE TOTALS		$0
NATIONAL OFFICE RESERVE		$204,827,600
TOTAL		$204,827,600

** Includes FY 2006 Carryover

RURAL HOUSING SERVICE
ALLOCATION IN THOUSANDS
SECTION 504 DIRECT RURAL HOUSING LOANS

	STATE	STATE BASIC FORMULA FACTOR	TOTAL FY 2007 ALLOCATION
1	ALABAMA	0.02914691	$901
60	ALASKA	0.00945161	$292
2	ARIZONA	0.02165916	$670
3	ARKANSAS	0.02301181	$712
4	CALIFORNIA	0.05356026	$1,656
5	COLORADO	0.01244796	$385
6	CONNECTICUT	0.00301503	$93
7	DELAWARE	0.00260858	$81
9	FLORIDA	0.02862195	$885
10	GEORGIA	0.03870552	$1,197
61	HAWAII	0.00914234	$283
12	IDAHO	0.00926157	$286
13	ILLINOIS	0.02289193	$708
15	INDIANA	0.02163577	$669
16	IOWA	0.01497537	$463
18	KANSAS	0.01252499	$387
20	KENTUCKY	0.02699175	$835
22	LOUISIANA	0.02658801	$822
23	MAINE	0.01004646	$311
24	MARYLAND	0.00809012	$250
25	MASSACHUSETTS	0.00467784	$152
26	MICHIGAN	0.03036170	$939
27	MINNESOTA	0.02241926	$693
28	MISSISSIPPI	0.02944306	$911
29	MISSOURI	0.02649320	$819
31	MONTANA	0.00748030	$231
32	NEBRASKA	0.00889870	$275
33	NEVADA	0.00389431	$120
34	NEW HAMPSHIRE	0.00533998	$165
35	NEW JERSY	0.00402807	$133
36	NEW MEXICO	0.01723147	$533
37	NEW YORK	0.02829025	$875
38	NORTH CAROLINA	0.04993409	$1,544
40	NORTH DAKOTA	0.00445144	$138
41	OHIO	0.03025666	$936
42	OKLAHOMA	0.02084848	$645
43	OREGON	0.01749746	$541
44	PENNSYLVANIA	0.03508076	$1,085
63	PUERTO RICO	0.01361295	$643
45	RHODE ISLAND	0.00061002	$75
46	SOUTH CAROLINA	0.02721728	$842
47	SOUTH DAKOTA	0.00727218	$225
48	TENNESSEE	0.02874616	$889
49	TEXAS	0.08626859	$2,668
52	UTAH	0.00539086	$167
53	VERMONT	0.00496554	$154
64	VIRGIN ISLANDS	0.00348170	$108
54	VIRGINIA	0.02455868	$759
56	WASHINGTON	0.02114040	$654
62	WEST PAC ISLANDS	0.00407807	$500
57	WEST VIRGINIA	0.01464971	$453
58	WISCONSIN	0.02300364	$711
59	WYOMING	0.00397110	$123
	STATE TOTALS		$31,599
	100 UNDERSERVED COUNTIES/COLONIAS		$1,733
	EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY EARMARK		$586
	GENERAL RESERVE		$734
	TOTAL		$34,652

RURAL HOUSING SERVICE
ALLOCATION IN THOUSANDS
SECTION 504 DIRECT RURAL HOUSING GRANTS

	STATE	STATE BASIC FORMULA FACTOR	TOTAL FY 2007 ALLOCATION
1	ALABAMA	0.02895129	$713
60	ALASKA	0.00683910	$168
2	ARIZONA	0.01822198	$449
3	ARKANSAS	0.02307817	$568
4	CALIFORNIA	0.04712512	$1,161
5	COLORADO	0.01159403	$269
6	CONNECTICUT	0.00371268	$91
7	DELAWARE	0.00293163	$85
9	FLORIDA	0.03041312	$749
10	GEORGIA	0.03661908	$902
61	HAWAII	0.00731435	$180
12	IDAHO	0.00852842	$210
13	ILLINOIS	0.02641754	$651
15	INDIANA	0.02405959	$593
16	IOWA	0.01786210	$440
18	KANSAS	0.01364909	$336
20	KENTUCKY	0.02688977	$662
22	LOUISIANA	0.02413924	$595
23	MAINE	0.01074827	$265
24	MARYLAND	0.00927164	$228
25	MASSACHUSETTS	0.00548024	$145
26	MICHIGAN	0.03302491	$813
27	MINNESOTA	0.02348925	$579
28	MISSISSIPPI	0.02699213	$665
29	MISSOURI	0.02801252	$690
31	MONTANA	0.00736568	$181
32	NEBRASKA	0.00983363	$242
33	NEVADA	0.00359134	$88
34	NEW HAMPSHIRE	0.00589663	$145
35	NEW JERSY	0.00461712	$124
36	NEW MEXICO	0.01420178	$350
37	NEW YORK	0.03156987	$778
38	NORTH CAROLINA	0.05019393	$1,236
40	NORTH DAKOTA	0.00470192	$116
41	OHIO	0.03422496	$843
42	OKLAHOMA	0.02108316	$519
43	OREGON	0.01770850	$436
44	PENNSYLVANIA	0.04090487	$1,008
63	PUERTO RICO	0.01023070	$393
45	RHODE ISLAND	0.00074832	$85
46	SOUTH CAROLINA	0.02591134	$638
47	SOUTH DAKOTA	0.00723669	$178
48	TENNESSEE	0.02972644	$732
49	TEXAS	0.07876808	$1,940
52	UTAH	0.00493463	$122
53	VERMONT	0.00527848	$130
64	VIRGIN ISLANDS	0.00243791	$85
54	VIRGINIA	0.02623675	$646
56	WASHINGTON	0.01980392	$488
62	WEST PAC ISLANDS	0.00280568	$500
57	WEST VIRGINIA	0.01559911	$384
58	WISCONSIN	0.02514997	$620
59	WYOMING	0.00385395	$95
	STATE TOTALS		$25,907
	100 UNDERSERVED COUNTIES/COLONIAS		$1,450
	EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY EARMARK		$594
	GENERAL RESERVE		$1,650
	TOTAL		$29.601

RURAL HOUSING SERVICE
ALLOCATION IN THOUSANDS
UNDERSERVED AND COLONIAS FUNDS

Underserved State	Sum Of Rural Populations	Percentage	Weight	502 Direct	504 Loan	504 Grant
Alabama	34,310	2.62%	3	$1,129	$35	$29
Alaska	29,320	2.24%	3	$1,129	$35	$29
Hawaii	33,480	2.56%	3	$1,129	$35	$29
Arizona	217,690	16.63%	5	$1,882	$58	$48
California	69,640	5.32%	4	$1,506	$46	$39
Colorado	3,670	0.28%	1	$376	$12	$10
Florida	72,310	5.52%	4	$1,506	$46	$39
Georgia	14,230	1.09%	2	$753	$23	$19
Idaho	1,030	0.08%	1	$376	$12	$10
Louisiana	36,260	2.77%	3	$1,129	$35	$29
Mississippi	92,260	7.05%	4	$1,506	$46	$39
Montana	32,540	2.49%	3	$1,129	$35	$29
Nebraska	7,160	0.55%	1	$376	$12	$10
New Mexico	57,970	4.43%	4	$1,506	$46	$39
North Dakota	17,550	1.34%	2	$753	$23	$19
West Pac Islands	5,920	0.45%	1	$376	$12	$10
Puerto Rico	301,960	23.07%	5	$1,882	$58	$48
South Dakota	41,840	3.20%	3	$1,129	$35	$29
Texas	189,070	14.45%	5	$1,882	$58	$48
Virgin Islands	50,580	3.86%	3	$1,129	$35	$29
	1,308,790	100.00%	60	$22,588	$693	$580

	502 Direct	504 Loan	504 Grant
Subtotal	$22,588	$693	$580
Reserve	$11,294	$347	$290
Colonias	$22,588	$693	$580
TOTAL FY 07	**$ 56,470**	**$ 1,733**	**$ 1,450**
Base Allocation	$376.47	$11.55	$9.67

COLONIAS	502 Direct	504 Loan	504 Grant
Arizona	$5,647	$173	$145
California	$5,647	$173	$145
New Mexico	$5,647	$173	$145
Texas	$5,647	$173	$145
TOTAL	**$22,588**	**$693**	**$580**

RURAL HOUSING SERVICE
ALLOCATION IN THOUSANDS
EMPOWERMENT ZONE, ENTERPRISE COMMUNITY
AND RURAL ECONOMIC PARTNERSHIP FUNDS

STATE	#	502 VL EZ/EC/REAP AMOUNT	502 Low EZ/EC/REAP AMOUNT	504 Loan EZ/EC/REAP AMOUNT
AK	1	$150	$150	$15
AZ	1	$150	$150	$15
CA	2	$300	$300	$30
FL	1	$150	$150	$15
GA	1	$150	$150	$15
HI	1	$150	$150	$15
IL	1	$150	$150	$15
IN	1	$150	$150	$15
KS	1	$150	$150	$15
KY	2	$300	$300	$30
ME	2	$300	$300	$30
MI	1	$150	$150	$15
MO	1	$150	$150	$15
MS	1	$150	$150	$15
MT	1	$150	$150	$15
ND	3	$450	$450	$45
NM	1	$150	$150	$15
NY	2	$300	$300	$30
OK	1	$150	$150	$15
PA	1	$150	$150	$15
SC	1	$150	$150	$15
SD	1	$150	$150	$15
TN	1	$150	$150	$15
TX	2	$300	$300	$30
VT	1	$150	$150	$15
WA	1	$150	$150	$15
WI	1	$150	$150	$15
WV	1	$150	$150	$15
Reserve		$179	$179	$67
AVAILABLE	35	$5,429	$5,429	$586

RURAL HOUSING SERVICE
FISCAL YEAR 2007
ALLOCATION IN ACTUAL DOLLARS
SECTION 502 GUARANTEED PURCHASE 2005 HURRICANE DISASTER LOANS (NONSUBSIDIZED)

STATE	STATE BASIC FORMULA FACTOR	TOTAL FY 2007 ALLOCATION
Alabama	N/A	$37,812,795
Alaska	N/A	$0
Arizona	N/A	$0
Arkansas	N/A	$0
California	N/A	$0
Colorado	N/A	$0
Connecticut	N/A	$0
Delaware	N/A	$0
Florida	N/A	$2,923,333
Georgia	N/A	$0
Hawaii	N/A	$0
Idaho	N/A	$0
Illinois	N/A	$0
Indiana	N/A	$0
Iowa	N/A	$0
Kansas	N/A	$0
Kentucky	N/A	$0
Louisiana	N/A	$461,938,977
Maine	N/A	$0
Maryland	N/A	$0
Massachusetts	N/A	$0
Michigan	N/A	$0
Minnesota	N/A	$0
Mississippi	N/A	$314,518,958
Missouri	N/A	$0
Montana	N/A	$0
Nebraska	N/A	$0
Nevada	N/A	$0
New Hampshire	N/A	$0
New Jersey	N/A	$0
New Mexico	N/A	$0
New York	N/A	$0
North Carolina	N/A	$0
North Dakota	N/A	$0
Ohio	N/A	$0
Oklahoma	N/A	$0
Oregon	N/A	$0
Pennsylvania	N/A	$0
Puerto Rico	N/A	$0
Rhode Island	N/A	$0
South Carolina	N/A	$0
South Dakota	N/A	$0
Tennessee	N/A	$0
Texas	N/A	$37,657,975
Utah	N/A	$0
Vermont	N/A	$0
Virgin Islands	N/A	$0
Virginia	N/A	$0
Washington	N/A	$0
West Pac	N/A	$0
West Virginia	N/A	$0
Wisconsin	N/A	$0
Wyoming	N/A	$0
STATE TOTALS		$854,852,038
NATIONAL OFFICE RESERVE		$171,287,107
TOTAL		$1,026,139,145

** Includes FY 2006 Carryover

[FR Doc. 07–2682 Filed 5–30–07; 8:45 am]
BILLING CODE 3410–XV–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of Intent To Evaluate and Notice of Availability of Final Findings.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Guana Tolomato Matanzas (Florida) National Estuarine Research Reserve, the San Francisco Bay (California) National Estuarine Research Reserve, the Jacques Cousteau (New Jersey) National Estuarine Research Reserve, the Maryland Coastal Management Program, and the Florida Coastal Management Program.

The Coastal Zone Management Program evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR part 923, Subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the CZMA and regulations at 15 CFR Part 921, Subpart E and Part 923, Subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. A public meeting will be held as part of each site visit. Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

Dates and Times: The Guana Tolomato Matanzas (Florida) National Estuarine Research Reserve evaluation site visit will be held July 17–19, 2007. One public meeting will be held during the week. The public meeting will be held on Wednesday, July 18, 2007, at 6 p.m. at the Guana Tolomato Matanzas National Estuarine Research Reserve Environmental Education Center, 505 Guana River Road, Ponte Vedra Beach, Florida.

The San Francisco Bay (California) National Estuarine Research Reserve evaluation site visit will be held August 27–30, 2007. One public meeting will be held during the week. The public meeting will be held on Tuesday, August 28, 2007, at 7 p.m. at the Farallon Room, Aquarium of the Bay, Pier 39, The Embarcadero at Beach Street, San Francisco, California.

The Jacques Cousteau (New Jersey) National Estuarine Research Reserve evaluation site visit will be held September 11–13, 2007. One public meeting will be held during the week. The public meeting will be held on Wednesday, September 12, 2007, at 7 p.m. at the Jacques Cousteau National Estuarine Research Reserve Coastal Education Center, 130 Great Bay Boulevard, Tuckerton, New Jersey.

The Maryland Coastal Management Program evaluation site visit will be held September 10–14, 2007. One public meeting will be held during the week. The public meeting will be held on Monday, September 10, 2007, at 6:30 p.m. at the Maryland Department of Natural Resources, Tawes State Office Building, C–1 Conference Room, 580 Taylor Avenue, Annapolis Maryland.

The Florida Coastal Management Program evaluation site visit will be held September 17–21, 2007. One public meeting will be held during the week. The public meeting will be held on Tuesday, September 18, 2007, at 6:30 p.m. at the Florida Department of Environmental Protection, Marjorie Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida.

ADDRESSES: Copies of states' most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting held for a Program. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the availability of the final evaluation findings for the Virginia, Georgia, Connecticut, Oregon, Texas, and New Hampshire coastal management programs. Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires a continuing review of the performance of coastal states with respect to approval of CMPs. The states of Virginia, Georgia, Connecticut, Oregon, Texas, and New Hampshire were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards.

Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Ralph.Cantral@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301) 563–7118.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: May 24, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E7–10486 Filed 5–30–07; 8:45 am]
BILLING CODE 3510–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

ACTION: Notice of open meeting.

SUMMARY: The purpose of the meeting is to give the board an opportunity to discuss Air University's proposed reorganization and to present to the Commander of Air University a report of their recommendations concerning the reorganization.

DATES: 18 June 2007, 11 PST (1 CST), telephone conference call (electronic meeting), 1–800–953–9388.

FOR FURTHER INFORMATION: Contact Dr. Dorothy Reed, Chief of Academic Affairs, Air University Headquarters, Maxwell Air Force Base, Alabama 36112–6335, telephone (334)–953–5159

BAO-ANH Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E7–10439 Filed 5–30–07; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Notice of Meeting

AGENCY: Department of the Air Force, HQ USAF Scientific Advisory Board.

ACTION: Notice.

SUMMARY: The Air Force Scientific Advisory Board (SAB) will meet on 28–29 June, 2007 at the Arnold and Mabel Beckman Center of the National Academies of Sciences and Engineering in Irvine, CA. The purpose of the meeting is to present the findings and recommendations of the FY 2007 SAB studies. The meeting will be closed to the public to discuss matters covered under subsection (c), subparagraphs (1), (4), and (9)(B) of Section 552b, Title 5, United States Code.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Kyle Gresham, Executive Director, Air Force Scientific Advisory Board, 1180 Air Force Pentagon, Washington, DC 20330–1040, (703) 697–4811.

BAO–ANH Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E7–10508 Filed 5–30–07; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Western Hemisphere Institute for Security Cooperation Board of Visitors; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the summer meeting of the Board of Visitors (BoV) for the Western Hemisphere Institute for Security Cooperation (WHINSEC). Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). The Board's charter was renewed on February 1, 2006 in compliance with the requirements set forth in Title 10 U.S.C. 2166.

Date: Thursday, June 14, 2007.

Time: 9 a.m. to 3 p.m.

Location: 2212 Rayburn House Office Building, Washington, DC.

Proposed Agenda: The WHINSEC BoV will be briefed on activities at the Institute since the last Board meeting on November 30–December 1, 2006 as well as receive other information appropriate to its interests.

FOR FURTHER INFORMATION CONTACT: WHINSEC Board of Visitors Secretariat at (703) 692–7852 or (703) 692–8221.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Pursuant to the Federal Advisory Committee Act of 1972 and 41 CFR 102–3.140(c), members of the public or interested groups may submit written statements to the advisory committee for consideration by the committee members. Written statements should be no longer than two typewritten pages and sent via fax to (703) 614–8920 by 5 p.m. EST on Monday, June 11, 2007 for consideration at this meeting. In addition, public comments by individuals and organizations may be made from 1 p.m. to 1:30 p.m. during the meeting. Public comments will be limited to three minutes each. Anyone desiring to make an oral statement must register by sending a fax to (703) 614–8920 with their name, phone number, e-mail address, and the full text of their comments (no longer than two typewritten pages) by 5 p.m. EST on Monday, June 11, 2007. The first ten requestors will be notified by 5 p.m. EST on Tuesday, June 12, 2007 of their time to address the Board during the public comment forum. All other comments will be retained for the record. Public seating is limited and will be available on a first come, first serve basis.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–2690 Filed 5–30–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Sage International, Ltd

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy. The Department of the Navy hereby gives notice of its intent to grant to Sage International, Ltd. a revocable, nonassignable, exclusive license to practice in the United States, the Government-owned invention described below:

U.S. Patent 6,839,998 (Navy Case 84497): issued January 11, 2005, entitled ''REPLACEMENT CHASSIS STOCK SYSTEM FOR FIREARMS''.

DATES: Anyone wishing to object to the grant of this license has fifteen days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Naval Surface Warfare Center, Crane Division, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Division, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001, telephone 812–854–4100.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: May 24, 2007.

L.R. Almand,

Office of the Judge Advocate General, Administrative Law Division, Federal Register Liaison Officer.

[FR Doc. E7–10414 Filed 5–30–07; 8:45 am]

BILLING CODE 3810–FF–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of Public Meeting.

DATE AND TIME: Thursday, June 14, 2007, 10 a.m.–1 p.m.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 150, Washington, DC 20005. (Metro Stop: Metro Center).

AGENDA: The Commission will consider the adoption of a draft EAC report on effective ballot designs and polling place signage. The Commission will consider other administrative matters.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

* * * * *

Donetta L. Davidson,

Chair, U.S. Election Assistance Commission.

[FR Doc. 07–2725 Filed 5–29–07; 3:34 pm]

BILLING CODE 6826–KF–M

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission (EAC).

* * * * *

ACTION: Notice of EAC Standards Board Virtual Public Meeting.

DATE AND TIME: Monday, June 18, 2007, 7 a.m. EDT through Wednesday, June 20, 5 p.m. EDT.

PLACE: EAC Standards Board Virtual Meeting Room at *www.eac.gov.* Once at the main page of EAC's Web site, viewers should click the link to the Standards Board Virtual Meeting Room. The virtual meeting room will open on Monday, June 18, 2007, at 7 a.m. EDT and will close on Wednesday, June 20, at 5 p.m. EDT. The site will be available 24 hours per day during that 3-day period.

Purpose: The EAC Standards Board will consider a draft letter to be sent to Members of the U.S. Senate and House of Representatives concerning The Ballot Integrity Act of 2007 and H.R. 811 and a motion directing the Executive Board to send the letter. The EAC Standards Board Virtual Meeting Room was established to enable the Standards Board to conduct business when it is not feasible for an in-person board meeting. The Standards Board will discuss the draft letter by posting written comments and questions on the Virtual Meeting Room site on Monday, June 18 and Tuesday, June 19, and will vote on the motion by posting Yea or Nay votes on the Virtual Meeting Room site on Wednesday, June 20, 2007.

This activity is open to the public. The public may view the proceedings of this virtual meeting by visiting the EAC Standards Board virtual meeting room at *www.eac.gov* at any time between Monday, June 18, 2007, 7 a.m. EDT and Wednesday, June 20, 2007, 5 p.m. EDT. 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.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

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Donetta L. Davidson,

Chair, U.S. Election Assistance Commission.

[FR Doc. 07–2726 Filed 5–29–07; 3:34 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

[Docket No. EERE–2007–BT–CRT–0002]

Agency Information Collection: Energy Conservation Program: Compliance and Certification Information Collection for Consumer Appliance Products

AGENCY: Department of Energy.

ACTION: Submission to the Office of Management and Budget (OMB) for review and approval; public comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection request is for a three-year extension of its Compliance Statement and Certification Report: Energy or Water Conservation Program for Consumer Products, OMB Control Number 1910–1400, whereby a manufacturer or private labeler reports on and certifies its compliance with energy efficiency standards for consumer appliances covered under Title 10, Code of Federal Regulations, Part 430 (10 CFR Part 430)—Energy Conservation Program for Consumer Products.

DATES: Comments regarding this collection must be received on or before July 2, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4650.

ADDRESSES: Written comments should be sent to: Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments should also be addressed to: Mr. James D. Raba, Building Technologies Program, EE–2J, Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Ave, SW., Washington, DC 20585–0121, or by fax at (202) 586–4617, or by e-mail at *appliance.information@ee.doe.gov.*

Any comments submitted must identify the information collection for consumer appliance products, and provide the docket number EERE–BT–CRT–2007. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: appliance.information@ee.doe.gov.* Include the docket number in the subject line of your message.
- *Postal Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW, Washington, DC 20585–0121. *Telephone:* (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Room 1J–018, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed original paper copy.

Docket: For access to the docket to read background documents or comments received, go to the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. *Please note:* DOE's Freedom of Information Reading Room (Room 1E–190 at the Forrestal Building) no longer houses rulemaking materials.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to James Raba , U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, telephone (202) 586–8654. *E-mail: jim.raba@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Authority and Background

Title III of the Energy Policy and Conservation Act (EPCA), as amended, provides for the Energy Conservation

Program for Consumer Products Other than Automobiles and sets forth energy conservation requirements for consumer appliance products. (42 U.S.C. 6291 *et seq.*) EPCA authorizes the Secretary of Energy to carry out these requirements, in part, by issuing the necessary rules requiring each manufacturer of a covered product to submit information and reports to ensure compliance. (42 U.S.C. 6296(d))

On November 17, 2006, DOE published in the **Federal Register** a notice and request for comments regarding its proposed information collection for consumer appliance products covered under 10 CFR 430. 71 FR 66943 (November 17, 2006). DOE received no comments on its proposed information collection.

The information collection request, at appendix A to subpart F of 10 CFR Part 430, provides a format for a manufacturer or private labeler to certify compliance with the applicable energy efficiency standards prescribed under section 325 of EPCA (42 U.S.C. 6295) and covers information necessary for DOE and United States Customs Service officials to facilitate voluntary compliance with and enforcement of the energy and water conservation standards established for refrigerators, refrigerator/freezers, freezers, room air conditioners, central air conditioners, central air-conditioning heat pumps, water heaters, furnaces, dishwashers, clothes washers, clothes dryers, direct heating equipment, kitchen ranges and ovens, pool heaters, fluorescent lamp ballasts, general service fluorescent lamps and incandescent reflector lamps, and plumbing products.

Today's notice and information collection request pertains: (1) *OMB No.:* 1910–1400. (2) *Collection Title:* Title 10 Code of Federal Regulations Part 430—Energy Conservation Program for Consumer Products: Appendix A to Subpart F of Part 430—Compliance Statement and Certification Report (Energy and Water Conservation Standards for Appliances). (3) *Type of Review:* Renewal. (4) *Purpose:* Regulations that, in part, (1) require the manufacturer of private labeler of any consumer appliance subject to energy or water conservation standards prescribed under section 325 of EPCA to establish, maintain, and retain records of its test data and subsequent verification of any alternative efficiency determination method used under Part 430, and (2) preclude distribution in commerce of any basic model of consumer appliance which is subject to an energy or water conservation standard set forth under subpart C of Part 430, unless it has submitted a Compliance Certification to DOE according to the provisions under 10 CFR section 430.62, that the basic model meets the requirements of the applicable standard. This collection of information ensures compliance with the energy conservation requirements for consumer appliances. (5) *Estimated Number of Respondents:* 150. (6) *Estimated Total Burden Hours:* 4,507. (7) *Number of Collections:* The package contains one information and recordkeeping requirement.

Comments are invited on: (a) Whether the information collections are necessary for the proper performance of the functions of the DOE, including whether the information has practical utility; (b) the accuracy of the DOE's estimate of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, energy conservation, reporting and recordkeeping requirements, compliance and certification, consumer appliance products.

Issued in Washington, DC, on May 22, 2007.

John Mizroch,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E7–10510 Filed 5–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, June 21, 2007, 6 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

6 p.m. Call to Order, Introductions, Review of Agenda, and Approval of April Minutes
6:15 p.m. Deputy Designated Federal Officer's Comments
6:30 p.m. Federal Coordinator's Comments
6:35 p.m. Liaisons' Comments
6:45 p.m. Review of Action Items
6:50 p.m. Public Comments and Questions
7 p.m. Subcommittee Reports
- Water Disposition/Water Quality Subcommittee
- Community Outreach Subcommittee
- Long Range Strategy/Stewardship Subcommittee
- Executive Committee

7:30 p.m. Public Comments and Questions
7:40 p.m. Administrative Issues: Motions, Review of Work Plan, and Review of Next Agenda
7:55 p.m. Final Comments
8 p.m. Adjourn

Breaks Taken As Appropriate

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday through Friday or by writing to Reinhard Knerr, Department of Energy, Paducah Site Office, Post Office Box

1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6825.

Issued at Washington, DC on May 25, 2007.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–10465 Filed 5–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on June 11 and 12, 2007, at the headquarters of the IEA in Paris, France, in connection with a meeting of the IEA's Standing Group on Emergency Questions (SEQ) and a Workshop on Emergency Data Reporting.

DATES: June 11–12, 2007.

ADDRESSES: 9, rue de la Fédération, Paris, France.

FOR FURTHER INFORMATION CONTACT: Diana D. Clark, Acting Assistant General for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–3417.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on June 11, 2007, beginning at 8:30 a.m. and on June 12. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at (1) a meeting of the IEA's Standing Group on Emergency Questions (SEQ) on June 11 beginning at 9:30 a.m., and (2) at a Workshop on Data Reporting organized by the SEQ as part of its Emergency Response Exercise 4 (ERA4) to be held at the headquarters of the IEA on June 12 beginning at 9:30 a.m. The IAB will hold a preparatory encounter among company representatives on June 11 from 8:30 to approximately 9 a.m. The agenda for this preparatory encounter is a review of the agenda for the SEQ meeting on June 11 and a review of the agenda for an SEQ session on ERE4 to be held on June 12.

The agenda of the SEQ meeting on June 11 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda.
2. Approval of the Summary Record of the 119th Meeting.
3. Status of Compliance with IEP Stockholding Commitments.
—Reports by Non-Complying Member Countries.
4. Program of Work.
—Report on the Governing Board Meeting at Ministerial Level.
—Plans for Committee Week in December.
5. The Current Oil Market Situation.
6. Emergency Response Review Program.
—Emergency Response Review of Poland.
7. Report on Current Activities of the Industry Advisory Board.
8. Follow-up to Katrina Collective Action.
9. Emergency Response Exercise 4.
10. Policy and Other Developments in Member Countries.
11. Highlights from the Gas Market Review.
12. Other Emergency Response Activities.
13. Activities with International Organizations and Non-Member Countries.
—Activities with the European Commission.
—Office of Global Dialogue Activities.
—In-Depth Review of Indonesia.
—ASEAN Workshop on Oil Stockholding.
—Summary of Recent Work on Russia.
14. Documents for Information.
—Emergency Reserve Situation of IEA Member Countries on April 1, 2007.
—Emergency Reserve Situation of Candidate Countries on April 1, 2007.
—Base Period Final Consumption: 2Q2006–1Q2007.
—Monthly Oil Statistics: March 2007.
—Update of Emergency Contacts List.
—Nominations for the Settlement Dispute Centre Panel of Arbitrators.
15. Other Business.
—Tentative Dates of Next SEQ Meetings.
—December 3–4: Joint SEQ/SOM Session and SEQ.
—March 17–20, 2008.
—June 24–26, 2008.

The agenda of the Workshop on June 12 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Opening of the Meeting.
2. Historical Overview of Emergency Data Reporting.
3. Results of the Emergency Data Reporting Survey.
4. What Can Be Done To Improve the Situation?
5. Round Table Discussion.
6. What Are the Next Steps?
7. Closing.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, May 24, 2007.

Diana D. Clark,

Acting Assistant General Counsel for International and National Security Programs.

[FR Doc. E7–10517 Filed 5–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Building America Energy Efficient Housing Partnerships

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

ACTION: Program notice.

SUMMARY: The National Energy Technology Laboratory, on behalf of the Office of Energy Efficiency and Renewable Energy's Building Technologies Program, intends to issue a Funding Opportunity Announcement (FOA) to select and fund multiple Energy Efficient Housing Partnership teams under the Building America program.

DATES: This FOA is expected to be issued on or about June 7, 2007.

FOR FURTHER INFORMATION CONTACT: George James, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Program Office EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9472, E-mail: *George.James@ee.doe.gov.*

C. Edward Christy, National Energy Technology Laboratory, P.O. Box 880, M/S E–02, Morgantown, WV 26507, (304) 285–4604, E-mail: *Eddie.Christy@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: The Building America program focuses on

conducting the systems research required to improve the efficiency of the approximately 1.6 million new homes built each year with the goal of developing cost effective net zero energy homes by 2020. These improvements are accomplished through research, development, field trials, and effective communication of key research results and system-based strategies. Building America implements this approach primarily through a group of teams. These teams typically include architects, engineers, building scientists, builders, equipment manufacturers, material suppliers, community planners, mortgage lenders, realtors, and contractor trades. This FOA, ''Building America Energy Efficient Housing Partnerships,'' will select multiple teams to continue the highly effective research Building America has undertaken since 1995.

For more information on the Building America program, go to *http://www.eere.energy.gov/buildings/building_america/.* FedBizOpps and Grants.gov provide e-mail notification services to interested parties who want to receive information about the posting of an acquisition or financial assistance opportunity. Register for funding opportunity notices at *http://www.grants.gov/search/subscribeAdvanced.do.*

Issued in Morgantown, WV, on May 22, 2007.

C. Edward Christy,

Director, Buildings and Industrial Technologies Division.

[FR Doc. E7–10489 Filed 5–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–422–020; Docket No. RP06–226–003]

El Paso Natural Gas Company; Notice of Compliance Filing

May 23, 2007.

Take notice that on May 18, 2007, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, the following tariff sheets to become effective June 1, 2007:

First Revised Sheet No. 362K
First Revised Sheet No. 362L

EPNG states that copies of the filing were served on parties on the official service list in the above-captioned proceedings.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10428 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–384–000]

Georgia-Pacific LLC (Formerly Georgia-Pacific Corporation); Notice of Application

May 23, 2007.

Take notice that on May 18, 2007, pursuant to section 7(b) of the Natural Gas Act (NGA) and 18 C.F.R. Part 157 of the regulations of the Commission, Georgia-Pacific LLC (GP) filed with the Commission an Abbreviated Application of Georgia-Pacific LLC To Amend Its Part 157 Certificate.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m, Eastern Time June 7, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10429 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–456–000]

Gulfstream Natural Gas System, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 23, 2007.

Take notice that on May 21, 2007, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, a revised Title Page and Second

Revised Sheet No. 205 proposed to become effective June 21, 2007.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10427 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–451–000]

MarkWest New Mexico L.P.; Notice of Proposed Changes in FERC Gas Tariff

May 22, 2007.

Take notice that on May 16, 2007, MarkWest New Mexico L.P. (MarkWest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective June 1, 2007:

First Revised Sheet No. 131
First Revised Sheet No. 132
First Revised Sheet No. 148
Second Revised Sheet No. 149
First Revised Sheet No. 204

MarkWest states that the filing is being made to update contact information in the tariff, specifically, the address to which all communications under the tariff should be directed.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10454 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–454–000]

Northern Natural Gas Company; Notice of Tariff Filing

May 23, 2007.

Take notice that on May 18, 2007, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, First Revised Sheet No. 54B, to be effective June 18, 2007.

Northern states that the above sheet is being filed to exempt deliveries to Market Area physical receipt points from fuel use charges.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10425 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–457–000]

Questar Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 23, 2007.

Take notice that on May 21, 2007, Questar Pipeline Company (Questar Pipeline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, to be effective January 1, 2008.

Fifth Revised Sheet No. 41
Seventh Revised Sheet No. 42
Ninth Revised Sheet No. 43
Ninth Revised Sheet No. 44
Eleventh Revised Sheet No. 45
Fifteenth Revised Sheet No. 46
Third Revised Sheet No. 82A
Second Revised Sheet No. 83
Original Sheet No. 83A
Sixth Revised Sheet No. 84
Original Sheet No. 205

Questar Pipeline states that copies of the filing have been served upon Questar Pipeline's customers and the public service commissions of Utah and Wyoming.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10431 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI07–9–000]

Charles William Showalter; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

May 22, 2007.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI07–9–000.

c. *Date Filed:* May 8, 2007.

d. *Applicant:* Charles William Showalter.

e. *Name of Project:* Showalter Micropower Project.

f. *Location:* The proposed Showalter Micropower Project will be located on the Kanawha River, near Glen Ferris and Charlton Heights, in Fayette County, West Virginia.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Charles William Showalter, 56½ Halstead Avenue, Oak Hill, West Virginia 25901–9546; telephone: (304) 663–1806.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or e-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* June 22, 2007.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing link.

Please include the docket number (DI07–9–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Showalter Micropower Project will include: (1) Three barges with a catamaran-style hull, tethered together and moored in line; (2) Barge One will house the control room, living space, and a grid-isolated power system for the control room; (3) Barge Two will contain three Kato MTG62 1000-kW generator-heads powered by hydraulic motors from Barge Three; (4) Barge Three will house the hydraulic pumps, hydraulic reservoir, and rear-and-side-slung water turbines of the Gorlov helical type, with a primary transmission line connected to facilities on shore; and (6) appurtenant facilities. The project will be connected to an interstate grid, but will not occupy any tribal or Federal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public

inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10450 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–62–000]

Southern California Edison Company; Petition for Declaratory Order

May 22, 2007.

Take notice that on May 18, 2007, Southern California Edison Company (SCE) tendered for filing a Petition for Declaratory Order for Incentive Rate Treatment for three major transmission projects the SCE is proposing to construct.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 8, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10453 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–339–000]

Texas Gas Transmission, LLC; Notice Concerning Omission of Reply Comments

May 23, 2007.

On May 18, 2007, Texas Gas Transmission, LLC (Texas Gas) filed a motion to omit the filing of reply comments following the technical conference held on April 17, 2007, in this proceeding, and to shorten the period for filing answers to its motion (May 18 Motion). In its May 18 Motion, Texas Gas stated it contacted each of the parties who filed initial comments, as well as the other parties who either commented on Texas Gas's initial proposal or who participated in the technical conference and subsequent conference call. Texas Gas was authorized to state that none of these parties oppose omitting the reply comments stage of this proceeding, or the Commission approving Texas Gas's proposed tariff sheets, as they were amended and clarified following the technical conference. On May 18, 2007, the Commission issued a notice shortening the period for filing answers to Texas Gas's filing. No comments were filed in response to the May 18 Motion.

In light of the foregoing, notice is hereby given that as requested by Texas Gas in its May 18 Motion, reply comments need not be filed to the initial comments following the technical conference.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10424 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–453–000]

Trailblazer Pipeline Company; Notice of Penalty Revenue Crediting Report

May 23, 2007.

Take notice that on May 18, 2007, Trailblazer Pipeline Company (Trailblazer) tendered for filing its Penalty Revenue Crediting Report.

Trailblazer states the purpose of this filing is to inform the Commission that Trailblazer collected no penalty revenues in the quarter ended March 31, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time May 30, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10430 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–455–000]

Tuscarora Gas Transmission Company; Notice of Propsoed Changes in FERC Gas Tariff

May 23, 2007.

Take notice that on May 18, 2007, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective June 18, 2007:

Second Revised Sheet No. 0
Third Revised Sheet No. 37D
Third Revised Sheet No. 63
Second Revised Sheet No. 104
Second Revised Sheet No. 113
First Revised Sheet No. 117
Second Revised Sheet No. 123
Second Revised Sheet No. 130

Tuscarora states that these sheets are being submitted to update contact information throughout the Tariff consistent with a recent change in ownership of the pipeline.

Tuscarora further states that a copy of this filing has been served on Tuscarora's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10426 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–63–000]

Strategic Transmission, LLC, Complainant v. PJM Interconnection, LLC, Respondent; Notice of Complaint Requesting Fast Track Processing

May 22, 2007.

Take notice that on May 21, 2007, Strategic Transmission, LLC (Strategic), pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. §§ 824(e) and 825 (e), and sections 206 and 212 of the Commission's Rules of Practice and Procedures, 18 CFR §§ 385.206 and 385.212, filed a complaint requesting fast track processing against PJM Interconnection, LLC (PJM) alleging that, in contravention of PJM's Open Access Transmission Tariff and the Federal Power Act, PJM has failed to identify on a timely basis the Incremental Capacity Transfer Rights for merchant transmission project S16 (advancement of the upgrade of the Gilbert-Glen Gardner 230 kv circuit).

Strategic certified that a copy of the complaint has been served on PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 29, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10452 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF07–7–000]

Iroquois Gas Transmission System, L.P.; Notice of Intent To Prepare an Environmental Assessment; For the Proposed Iroquois 08/09 Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

May 22, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will address the environmental impacts of the Iroquois 08/09 Expansion Project proposed by Iroquois Gas Transmission System, L.P. (Iroquois). The Commission will use the EA in its decision-making process to determine whether or not to authorize the project. This notice explains the scoping process the FERC staff will use to gather input from the public and interested agencies on the project. Your input will help us determine the issues that need to be evaluated in the EA. Please note that the scoping period will close on June 29, 2007.

Comments may be submitted in written or verbal form. Further details on how to submit written comments are provided in the Public Participation section of this notice. In lieu of sending written comments, the FERC staff invite you to attend the public scoping meetings we have scheduled as follows:

Date and time	Location
Monday, June 18, 2007, 7 p.m. to 9 p.m. (EST).	Milford City Hall Auditorium, 110 River Street, Milford, CT 06460, Telephone: (203) 783–3230.
Tuesday, June 19, 2007, 7 p.m. to 9 p.m. (EST).	Brookfield High School, 45 Long Meadow Hill Road, Brookfield, CT 06804, Telephone: (203) 775–7704.

This notice is being sent to affected landowners; Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. We [1] encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by an Iroquois representative about the acquisition of an easement to construct, operate, and maintain the proposed project facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

Iroquois proposes to construct the Iroquois 08/09 Expansion Project in three phases which would consist of: Looping its existing pipeline system at three locations in New York and Connecticut by November 1, 2008 (Phase 1); constructing a new compressor station in Milford, Connecticut with 20,620 horsepower of compression by January 1, 2009 (Phase 2); and adding a 10,310 horsepower compressor unit to Iroquois' Brookfield Compressor Station in Brookfield, Connecticut by November 1, 2009 (Phase 3).[2]

The Phase 1 pipeline looping would include construction of 5.8 miles of 36-inch-diameter pipeline in Boonville, New York; 1.0 miles of 36-inch-diameter pipeline in Wright, New York; and 1.6 miles of 36-inch-diameter pipeline in Newtown, Connecticut. The new pipeline looping segments would be located adjacent to Iroquois' existing pipeline and connected to it at both ends.

The planned project would expand Iroquois existing system to deliver up to 200,000 dekatherms per day of natural gas transportation service to KeySpan Gas East Corporation at South Commack, Long Island. Iroquois plans to file its certificate application in September 2007 and anticipates receiving a Commission certificate by March 2008.

A general location of the proposed project is provided in Appendix 1.[3]

Land Requirements for Construction

The Iroquois 08/09 Expansion Project is in the preliminary planning stage. The precise facility design, pipeline route, rights-of-way, and other details have not yet been finalized. The proposed pipeline loops are being planned for routes adjacent to existing rights-of-way. Specific information on the proposed project location and the land used by it will be made available to the public when it is finalized.

Construction of the proposed pipeline loop segments would require about 176.1 acres of land for construction. Following construction, about 90.4 acres would be maintained for Iroquois' ongoing pipeline operation. The remaining 85.7 acres of land would be restored and allowed to revert to its former use. Construction of the proposed Milford Compressor Station would require use of about 4.8 acres of land, and operation of the station would require maintaining 4.6 acres of the

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

[2] The 7,700 horsepower Brookfield Compressor Station was approved by the Commission on December 21, 2006, as part of Iroquois' MarketAccess Project in Docket No. CP02–31–002. Construction of the Brookfield Compressor Station is scheduled to commence in the fall of 2007 and operation of the station is scheduled to commence in the fall of 2008.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the Public Participation section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Iroquois.

affected land. The proposed modifications to the Brookfield Compressor Station would increase the compressor station yard area from 1.4 acres to 1.8 acres. All of the land required for the proposed Milford Compressor Station and the Brookfield Compressor Station modifications is currently owned by Iroquois.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action when it considers whether or not an interstate natural gas pipeline should be approved. The FERC will use the EA to consider the environmental impact that could result if the Iroquois 08/09 Expansion Project is authorized under Section 7 of the Natural Gas Act. NEPA also requires us to discover and address concerns the public may have about proposals to be considered by the Commission. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. With this Notice of Intent, the Commission staff is requesting public comments on the scope of the issues to be addressed in the EA. All comments received will be considered during preparation of the EA.

Our independent analysis of the issues will be included in the EA. We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on affected resources.

The EA will be mailed to Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 30-day comment period will be allotted for review of the EA. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this notice.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under its Pre-filing Process. The purpose of the Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

With this notice, we are asking Federal, State, and local governmental agencies with jurisdiction and/or special expertise with respect to environmental issues, to express their interest in becoming cooperating agencies for the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below (see *Public Participation*).

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified several issues that we think deserve attention based on a preliminary review of the project site and the facility information provided by Iroquois. This preliminary list of issues may be changed based on your comments and our analysis.

- Potential impacts on perennial and intermittent streams and waterbodies.
- Evaluation of temporary and permanent impacts on wetlands and development of appropriate mitigation.
- Potential effect on federally and state-listed species.
- Potential impacts on existing land uses, including managed forested lands.
- Potential visual effects of the aboveground facilities on surrounding areas.
- Potential impacts to local air and noise quality associated with construction and operation.
- Public safety and potential hazards associated with the transport of natural gas and the proposed compressor facilities.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please carefully follow these instructions:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of your comments for the attention of Gas Branch 1, DG2E.
- Reference Docket No. PF07–7–000 on the original and both copies.
- Mail your comments so that they will be received in Washington, DC on or before June 29, 2007.

The Commission strongly encourages electronic filing of any comments in response to this Notice of Intent. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide, as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can submit comments, you will need to create a free account, which can be created on-line.

The public scoping meetings (dates, times, and locations are listed above) are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of each meeting will be generated so that your comments will be accurately recorded.

Once Iroquois formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. If you received this notice, you are currently on the environmental mailing list for this project. If you want to remain on

our mailing list, please return the attached Information Request (Appendix 2). All individuals who provide written comments, attend the scoping meetings, or return the Information Request will remain on our environmental mailing list for this project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary link.'' Click on the eLibrary link, select ''General Search'' and enter the project docket number excluding the last three digits (i.e., PF07–7) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.* Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, Iroquois has established an Internet website for this project at *http://08–09.iroquois.com.* The Web site includes a description of the project, maps of the proposed pipeline facilities, and answers to frequently asked questions. You can also request additional information or provide comments directly to Iroquois by phone at 1–800–253–5152, or by mail at the following address: Ruth Parkins, Public Affairs Manager, Iroquois Pipeline Operating Company, One Corporate Drive, Suite 600, Shelton, CT 06484. E-mail: *ruth_parkins@iroquois.com.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10449 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 618–139]

Alabama Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 23, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for Temporary Variance of Minimum Flow Requirement.

b. *Project No.:* 618–139.

c. *Date Filed:* May 21, 2007.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Jordan Dam.

f. *Location:* On the Coosa River, in Elmore, Chilton, and Coosa Counties, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Alan L. Peeples, Alabama Power Company, 600 N. 18th Street, P.O. Box 2641, Birmingham, AL 35291, (205) 257–1401.

i. *FERC Contact:* Peter Yarrington, *peter.yarrington@ferc.gov,* (202) 502–6129.

j. *Deadline for filing comments, motions to intervene and protests:* June 6, 2007.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* The Alabama Power Company (APC) is requesting a temporary variance of the minimum flow requirement of the Jordan Dam Project license. Because of persistent and worsening drought conditions in the project area and the need to conserve water, APC requests that it be allowed to begin downramping from 3,000 cubic feet per second (cfs) to 2,000 cfs beginning on or about May 22, 2007, rather than beginning this downramping June 16 as required in the license. Once flows are downramped to 2000 cfs this flow release would be maintained until the following April 1 as required in the license. Included in APC's request were concurrences received from the state and federal resource agencies. The Commission's order issued March 30, 2007, authorized among other things the APC to increase minimum flows from 2,000 cfs to 3,000 cfs rather than to 4,000 cfs beginning April 1, 2007.

l. *Location of the Application:* The filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or by calling (202) 502–8371, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docsfiling/esubscription.asp* to be notified vial e-mail or new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(I)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10432 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1962–153]

Pacific Gas and Electric Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 22, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to modify condition 10 and article 404 related to certain fishery habitat improvements.

b. *Project No:* 1962–153.

c. *Date Filed:* April 25, 2007.

d. *Applicant:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* Rock Creek-Cresta Project.

f. *Location:* The project is located partly within the Plumas National Forest on the North Fork Feather River in Butte and Plumas Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Bill Zemke, Pacific Gas and Electric Company, Mail Code N11C, P.O. Box 770000, San Francisco, CA 94177.

i. *FERC Contact:* Diana Shannon, Telephone (202) 502–8887, and e-mail: *DianaShannon@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protest:* June 22, 2007.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* PG&E requests that Condition 10 of the license be modified to accommodate changes agreed to by the Ecological Resources Committee in September 2006. Proposed modifications include: (1) Specify in Condition 10(A) that monitoring of gravel in Granite Creek be performed annually with supplemental gravel placement being made no more frequently than once every three years for the life of the license; (2) specify in Condition 10(C) to add and maintain spawning gravel in Opapee Creek, rather than construct a spawning channel at that location; and (3) specify in Condition 10(D) the actual size (width and length) of the completed spawning channel in Milk Ranch Creek.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10451 Filed 5–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects—Rate Order No. WAPA–134

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rates.

SUMMARY: The Western Area Power Administration (Western) is proposing revised rates for Loveland Area Projects (LAP) firm electric service. LAP consists of the Fryingpan-Arkansas Project (Fry-Ark) and the Pick-Sloan Missouri Basin Program (Pick-Sloan)—Western Division, which were integrated for marketing and rate-making purposes in 1989. The current rates, under Rate Schedule L–F6, expire on December 31, 2010, but are not sufficient to meet the LAP revenue requirements. The proposed rates will provide sufficient

revenue to pay all annual costs, including interest expense, and repay required investment within the allowable period. Western will prepare a brochure that provides detailed information on the proposed rates. The proposed rates, under Rate Schedule L–F7, are scheduled to go into effect on January 1, 2008, and will remain in effect through December 31, 2012. Publication of this **Federal Register** notice begins the formal process for the proposed rate adjustment.

DATES: The consultation and comment period begins today and will end August 29, 2007. Western will present a detailed explanation of the proposed rates at a public information forum on June 18, 2007, 10 a.m. to 12 p.m. MDT, in Denver, Colorado. Western will accept oral and written comments at a public comment forum on July 23, 2007, 10 a.m. to 12 p.m. MDT, in Denver, Colorado. Western will accept written comments any time during the consultation and comment period.

ADDRESSES: The public information forum and the public comment forum will both be held at the Radisson Stapleton Plaza Hotel, 3333 Quebec Street in Denver, Colorado, on the dates cited above. Written comments and/or requests to be informed of Federal Energy Regulatory Commission (Commission) actions concerning the rates submitted by Western to the Commission for approval should be sent to James D. Keselburg, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, e-mail *lapfirmadj@wapa.gov.* Western will post information about the rate process on its Web site under the ''Rate Adjustments'' section at *http://www.wapa.gov/rm/ratesRM/2008RatesAdjustment--FirmPower.htm.* Western will post comments received via letter and e-mail to its Web site after the close of the comment period. Written comments must be received by the end of the consultation and comment period to be considered by Western in its decision process.

FOR FURTHER INFORMATION CONTACT: Ms. Sheila D. Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, telephone (970) 461–7211, e-mail *lapfirmadj@wapa.gov* or *scook@wapa.gov.*

SUPPLEMENTARY INFORMATION: Proposed rates for LAP firm electric service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance, and other expenses. The projected annual revenue requirement for firm electric service is allocated equally between capacity and energy.

Rate Schedule L–F6 for firm electric service, WAPA–125, was approved for a 5-year period beginning January 1, 2006, and ending December 31, 2010.[1] Under the current Rate Schedule L–F6, a two-step method was approved. The composite rate for the second step, effective on January 1, 2007, is 27.36 mills per kilowatthour (mills/kWh), the firm energy rate is 13.68 mills/kWh and the firm capacity rate is $3.59 per kilowattmonth (kW-month). These rates are listed in Table 1.

During informal discussions prior to the commencement of this rate adjustment process, Western received requests from firm power customers to identify its firm electric service revenue requirement using a Base component (Base) and Drought Adder component (Drought Adder). The firm power customers noted that by identifying the components of the firm electric service revenue requirement in this manner, Western could identify drought impacts in the regions covered by the LAP and the Pick-Sloan Missouri Basin Program (Pick-Sloan)—Eastern Division (individually called Project and collectively called Projects) and demonstrate a proactive approach to repaying incurred costs related to the drought.

In response to these suggestions, Western prepared a proposed rate schedule identifying these two components for LAP firm electric service (L–F7) for consideration and comment during this public process. This proposed rate schedule also reflects rate adjustments based on the Fry-Ark and Pick-Sloan—Western Division revenue requirements derived from the Fiscal Year 2006 Power Repayment Studies (PRS). The PRSs set the LAP revenue requirement for 2008 for firm electric service at $66.1 million, which is an 18.5 percent increase. The proposed rates under L–F7 are listed in Table 1.

TABLE 1.—PROPOSED FIRM ELECTRIC SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing rate L–F6	Proposed Rate (Jan. 1, 2008) L–F7	Percent change
LAP Revenue Requirement	$55.8 million	$66.1 million	18.5
LAP Composite Rate	27.36 mills/kWh	32.42 mills/kWh	18.5
Firm Energy	13.68 mills/kWh	16.21 mills/kWh	18.5
Firm Capacity	$3.59/kW-month	$4.25/kW-month	18.4

Through this **Federal Register** notice, as well as through Western's Pick-Sloan—Eastern Division Rate Order No. WAPA–135 process, Western's Rocky Mountain and Upper Great Plains Regions (Regions) are proposing to identify their firm electric service revenue requirements using a Base and a Drought Adder. The Base is a revenue requirement for each Project that includes annual operation and maintenance expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs. Normal timing power purchases are purchases due to operational constraints (*e.g.*, management of endangered species habitat, water quality, navigation, control area purposes, etc.) and are not associated with the current drought in the Regions.

The Drought Adder revenue requirement for each Project is a formula-based revenue requirement that includes costs attributable to the present drought conditions within the Regions. The Drought Adder includes costs associated with future non-timing purchases of additional power to firm obligations not covered with available system generation due to the drought, previously incurred deficits due to purchased power debt that resulted from non-timing power purchases made during this drought, and the interest

[1] WAPA–125 was approved by the Deputy Secretary of Energy on November 9, 2005 (70 FR ¶ 71273), and confirmed and approved by FERC on a final basis on June 14, 2006, in Docket No. EF06–5181–000 (115 FERC ¶ 62276).

associated with the previously incurred and future drought debt. The Drought Adder is designed to repay the drought debt within 10 years from the time the debt was incurred, using balloon payment methodology. For example, the drought debt incurred in Pick-Sloan in 2006 will be paid off by 2016.

The annual revenue requirement calculation can be summarized by the following formula: Annual Revenue Requirement = Base + Drought Adder. Under this proposal, the LAP annual revenue requirement equals $66.1 million and is comprised of a Base revenue requirement of $48.6 million plus a Drought Adder revenue requirement of $17.5 million.

Western's proposal for identifying the firm electric service revenue requirement using a Base and a Drought Adder will allow Western to identify and present the impacts of the drought, demonstrate repayment of those drought related costs in the Fry-Ark PRS and the Pick-Sloan PRS, and allow Western to be more responsive to changes in drought-related expenses. Western will continue to charge and bill its customers firm electric service rates for energy and capacity, which are the sum of the Base and Drought Adder.

Western reviews its firm electric service rates annually. Western will review the Base component after the annual PRSs are completed, generally in the first quarter of the calendar year. If an adjustment to the Base is necessary, Western will initiate a public process pursuant to 10 CFR part 903 prior to making an adjustment.

Western will review the Drought Adder each September to determine if drought costs differ from those projected in the PRSs. Based upon this review, Western will determine whether an adjustment to the Drought Adder is necessary. For any adjustments attributed to drought costs of less than or equal to the equivalent of 2 mills/kWh to the LAP composite rate, Western will notify customers by letter in October of the planned adjustment and implement the adjustment in the following January billing cycle. For the portion of any planned incremental adjustment greater than the equivalent of 2 mills/kWh to the LAP composite rate, Western will engage in a public process pursuant to 10 CFR part 903 prior to making that portion of the adjustment. Although decremental adjustments to the Drought Adder will occur, the adjustment cannot result in the Drought Adder being a negative number. Western will conduct a preliminary review of the Drought Adder in early summer to give customers advance notice of any adjustment for the following January. Customers will be advised by letter of the estimated change to the Drought Adder with the final Drought Adder adjustment verified with notification in the October letter to the customers.

Legal Authority

Since the proposed rates constitute a major adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. After review of public comments and possible amendments or adjustments, Western will recommend that the Deputy Secretary of Energy approve the proposed rates on an interim basis.

Western is establishing firm electric service rates for LAP under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws; section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Commission. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, e-mail, or other documents that Western initiates to develop the proposed rates are available for inspection and copying at the Rocky Mountain Regional Office, located at 5555 East Crossroads Boulevard, Loveland, Colorado. Many of these documents and supporting information are also available on Western's Web site under the ''Rate Adjustments'' section located at *http://www.wapa.gov/rm/ratesRM/2008RatesAdjustment--FirmPower.htm.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: May 15, 2007.

Timothy J. Meeks,

Administrator.

[FR Doc. E7–10513 Filed 5–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division—Rate Order No. WAPA–135

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rates.

SUMMARY: The Western Area Power Administration (Western) is proposing revised rates for Pick-Sloan Missouri Basin Program—Eastern Division (P–SMBP—ED) firm electric and firm peaking power service. Current rates, under Rate Schedules P–SED–F8 and P–SED–FP8, extend through December 31, 2010, but are not sufficient to meet the P–SMBP—ED revenue requirements. The proposed rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period. Western will prepare a brochure that provides detailed information on the proposed rates. The proposed rates, under Rate Schedules P–SED–F9 and P–SED–FP9, are scheduled to go into effect on January 1, 2008, and will remain in effect through December 31, 2012. Publication of this **Federal Register** notice begins the formal process for the proposed rate adjustment.

DATES: The consultation and comment period begins today and will end August 29, 2007. Western will present a detailed explanation of the proposed

rates at public information forums. *Public information forum dates are:*

1. June 18, 2007, 10 a.m. to 12 p.m. MDT, Denver, CO.

2. June 19, 2007, 9 a.m. to 12 p.m. CDT, Sioux Falls, SD.

Western will accept oral and written comments at public comment forums. *Public comment forums will be held on the following dates:*

1. July 23, 2007, 10 a.m. to 12 p.m. MDT, Denver, CO.

2. July 24, 2007, 9 a.m. to 12 p.m. CDT, Sioux Falls, SD.

Western will accept written comments any time during the consultation and comment period.

ADDRESSES: Written comments and/or requests to be informed of Federal Energy Regulatory Commission (Commission) actions concerning the rates submitted by Western to the Commission for approval should be sent to Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, or e-mail at *ugpfirmrate@wapa.gov.* Western will post information about the rate process on its Web site at *http://www.wapa.gov/ugp/rates/2008firmrateadjust.* Western will post comments received via letter and e-mail to its Web site after the close of the comment period. Written comments must be received by the end of the consultation and comment period to be considered by Western in its decision process.

Public information forum locations are:

1. Denver—Radisson Stapleton Plaza, 3333 Quebec Street, Denver, CO.

2. Sioux Falls—Holiday Inn, 100 West 8th Street, Sioux Falls, SD.

Public comment forum locations are:

1. Denver—Radisson Stapleton Plaza, 3333 Quebec Street, Denver, CO.

2. Sioux Falls—Holiday Inn, 100 West 8th Street, Sioux Falls, SD.

FOR FURTHER INFORMATION CONTACT: Mr. Jon R. Horst, Rates Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 247–7444, e-mail *horst@wapa.gov.*

SUPPLEMENTARY INFORMATION: Proposed rates for P–SMBP—ED firm electric and firm peaking service are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance, and other expenses. The projected annual revenue requirement for firm electric service is allocated equally between capacity and energy.

Rate Schedules P–SED–F8 and P–SED–FP8 for P–SMBP—ED firm electric and firm peaking service, respectively, were approved for a 5-year period beginning on January 1, 2006, and ending December 31, 2010 [1]. Under current Rate Schedule P–SED–F8, the composite rate is 19.54 mills per kilowatthour (mills/kWh), the energy rate is 11.29 mills/kWh, and the capacity rate is 4.45 per kilowattmonth (kWmonth). Under current Rate Schedule P–SED–FP8, the firm peaking capacity rate is $4.45 per kWmonth. These rates are set forth in Table 1, below.

During informal discussions prior to the commencement of this rate adjustment process, Western received requests from firm power customers to identify its firm electric service revenue requirement using a Base component (Base) and Drought Adder component (Drought Adder). The firm power customers noted that by identifying the components of the firm electric service revenue requirement in this manner, Western could identify drought impacts in the Pick-Sloan Missouri Basin Program (P–SMBP) and demonstrate a proactive approach to repaying incurred costs related to the drought.

Western also received requests from customers to eliminate the tiered rate. The tiered rate charge was implemented in the mid-1970's for loads in excess of 60 percent monthly load factor. Customers believe that continuing the tiered rate charge discourages load management. Moreover, eliminating the tiered rate from the P–SMBP—ED firm electric service schedule is consistent with the administration of firm electric service rates in the Pick-Sloan Missouri Basin Program—Western Division (P–SMBP—WD), which does not assess a tiered rate charge.

Western also received customer requests to redesign its revenue recovery methodology for firm peaking service. Western presently provides both firm electric and firm peaking service to customers using a seasonal contract rate of delivery (CROD). Western's firm peaking capacity rate is equal to the firm power capacity rate, which is calculated by dividing one-half of the P–SMBP—ED revenue requirement by the sum of the metered billing units for firm electric service and the seasonal CROD monthly billing units for firm peaking service. During informal discussions, several customers stated that Western's rate design for firm electric capacity and firm peaking capacity should be representative of the different products. Customers recommended that Western use the sum of the total allocated seasonal CRODs for both firm electric capacity and firm peaking capacity and model them as the billing units for calculating the firm peaking capacity rate. It was noted in these discussions that any change to the peaking power capacity revenue requirement methodology also affects the P–SMBP total firm power capacity revenue requirement in the P–SMBP power repayment study (PRS) which is recovered by both eastern and western divisions of the P–SMBP.

In response to these suggestions, Western prepared proposed rate schedules for firm electric service (P–SED–F9) and firm peaking service (P–SED–FP9) for consideration and comment during this public process. The projected annual revenue requirement under these schedules is allocated equally between capacity and energy. These proposed rate schedules also reflect rate adjustments based on the Pick-Sloan revenue requirement derived from the Fiscal Year 2006 Final Power Repayment Study (PRS). The PRS sets the total annual P–SMBP—ED revenue requirement for 2008 for firm electric and firm peaking power service at $235.9 million.

TABLE 1.—PROPOSED FIRM ELECTRIC AND FIRM PEAKING SERVICE REVENUE REQUIREMENT AND RATES

Firm electric service	Existing rates	Proposed rates (Jan. 1, 2008)	Percent change
P–SMBP—ED Firm and Firm Peaking Revenue Requirement	$189.9 million	$235.9 million	24.2
P–SMBP—ED Composite Rate	19.54 mills/kWh	24.49 mills/kWh	25.3
Firm Capacity	$4.45/kWmonth	$5.65/kWmonth	27.0
Firm Energy	11.29 mills/kWh	13.99 mills/kWh	23.9
Tiered > 60 Percent Load Factor	5.21 mills/kWh.		

[1] WAPA–126 was approved by the Deputy Secretary of Energy on November 5, 2005 (70 FR ¶ 71280), and confirmed and approved by FERC on a final basis on April 27, 2006, in Docket No. EF06–5031–000 (115 FERC ¶ 62107).

TABLE 1.—PROPOSED FIRM ELECTRIC AND FIRM PEAKING SERVICE REVENUE REQUIREMENT AND RATES—Continued

Firm electric service	Existing rates	Proposed rates (Jan. 1, 2008)	Percent change
Firm Peaking Capacity	$4.45/kWmonth	$5.10/kWmonth	14.6
Firm Peaking Energy [1]	11.29 mills/kWh	13.99 mills/kWh	23.9

[1] Firm peaking energy is normally returned. This will be assessed in the event firm peaking energy is not returned.

Under proposed Rate Schedule P–SED–F9, the composite rate will increase 25.3 percent. The firm energy rate will increase to 13.99 mills per kWh, or 23.9 percent, and the firm capacity rate will increase to $5.65/kWmonth, or 27.0 percent.

Additionally, under Rate Schedule P–SED–F9, Western is proposing to identify its firm electric service revenue requirement using a Base and a Drought Adder. The Base is a revenue requirement that includes annual operation and maintenance expenses, investment repayment and associated interest, normal timing power purchases, and transmission costs. Western's normal timing power purchases are purchases due to operational constraints (*e.g.*, management of endangered species habitat, water quality, navigation, etc.) and are not associated with the current drought.

The Drought Adder is a formula-based revenue requirement that includes costs attributable to the present drought conditions within the Pick-Sloan Program. The Drought Adder includes costs associated with future non-timing purchases of additional power to firm obligations not covered with available system generation due to the drought, previously incurred deficits due to purchased power debt that resulted from non-timing power purchases made during this drought, and the interest associated with the previously incurred and future drought debt. The Drought Adder is designed to repay Western's drought debt within 10 years from the time the debt was incurred, using balloon payment methodology. For example, the drought debt incurred by Western in 2006 will be paid off by 2016.

The annual revenue requirement calculation can be summarized by the following formula: Annual Revenue Requirement = Base + Drought Adder. Under this proposal, the P–SMBP—ED annual revenue requirement equals $245.2 million and is comprised of a Base revenue requirement of $157.2 million plus a Drought Adder revenue requirement of $88.0 million. Both the Base and Drought Adder recover portions of the firm power revenue requirement, firm peaking power, and associated 5 percent discount revenue necessary to equal the P–SMBP—ED annual revenue requirement.

Western's proposal for identifying its firm electric service revenue requirement using Base and Drought Adder will help Western present the impacts of the drought within the Pick-Sloan Program, demonstrate repayment of those drought related costs in the PRS, and allow Western to be more responsive to changes in drought related expenses. Western will continue to charge and bill its customers firm electric service rates for energy and capacity, which are the sum of the Base and Drought Adder.

Western reviews its firm electric service rates annually. Western will review the Base after the annual PRS is completed, generally in the first quarter of the calendar year. If an adjustment to the Base is necessary, Western will initiate a public process pursuant to 10 CFR part 903 prior to making an adjustment.

Western will review the Drought Adder each September to determine if drought costs differ from those projected in the PRS, and, if so, whether an adjustment to the Drought Adder is necessary. For any adjustments attributed to drought costs of less than or equal to the equivalent of 2 mills/kWh to the PRS composite rate, Western will notify customers by letter in October of the planned adjustment and implement the adjustment in the January billing cycle. For the portion of any planned incremental adjustment greater than the equivalent of 2 mills/kWh to the PRS composite rate, Western will engage in a public process pursuant to 10 CFR part 903 prior to making that portion of the adjustment. Although decremental adjustments to the Drought Adder will occur, the adjustment cannot result in the Drought Adder being a negative number. Western will conduct a preliminary review of the Drought Adder in early summer to give customers advanced notice of any adjustment in the following January. Customers will be advised by letter of the estimated change to the Drought Adder with the final Drought Adder adjustment verified with notification in the October letter to the customers.

Under Rate Schedule P–SED–F9, Western is also proposing to eliminate the tiered rate in the P–SMBP—ED. Western agrees with customers that continuing a tiered rate charge for loads in excess of 60 percent monthly load factor discourages load management, and eliminating the tiered rate from the P–SMBP—ED firm electric service schedule is consistent with the design of firm electric service rates in the P–SMBP—WD.

Western is also proposing to redesign its revenue recovery methodology for firm peaking service. Under proposed Rate Schedule P–SED–FP9, the firm peaking capacity charge will be calculated by dividing one-half of the P–SMBP—ED revenue requirement by the sum of the total allocated seasonal CRODs modeled as monthly billing units for both firm electric and firm peaking service. While Western is proposing to redesign its methodology for calculating the firm peaking capacity rate, it notes that the firm electric capacity and firm peaking capacity rates combined will continue to recover one-half of P–SMBP—ED annual revenue requirement.

As set forth in Table 1, above, under proposed Rate Schedule P–SED–FP9, the firm peaking capacity rate will increase to $5.10 per kWmonth, or 14.6 percent. Peaking energy is either returned to Western or paid for in accordance with the terms of the contract between Western and the peaking power customer. The firm peaking energy rate is set forth in Table 1, above.

Legal Authority

Since the proposed rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold both public information forums and public comment forums. After review of public comments, and possible amendments or adjustments, Western will recommend the Deputy Secretary of Energy approve the proposed rates on an interim basis.

Western is establishing firm electric service and peaking rates for P–SMBP—ED under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws,

particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Commission. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Availability of Information

Interested parties may review and copy all brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed rates. These documents are at the Upper Great Plains Regional Office, located at 2900 4th Avenue North, Billings, Montana. Many of these documents and supporting information are also available on Western's Web site under the ''2008 Firm Rate Adjustment'' section located at *http://www.wapa.gov/ugp/rates/2008firmrateadjust.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: May 18, 2007.

Timothy J. Meeks,

Administrator.

[FR Doc. E7–10514 Filed 5–30–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0724; FRL–8320–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Boat Manufacturing (Renewal), EPA ICR Number 1966.03, OMB Control Number 2060–0546

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 July 2, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0724, 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: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@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* 38853), 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–2006–0724, which is available for public viewing online at *http://www.regulations.gov*, or 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 and Information Center 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 *www.regulations.gov*.

Title: NESHAP for Boat Manufacturing.

ICR Numbers: EPA ICR Number 1966.03, OMB Control Number 2060–0546.

ICR Status: This ICR is scheduled to expire on July 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR Part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Boat Manufacturing (40

CFR Part 63, Subpart VVVV) were proposed on July 14, 2000, and promulgated on August 22, 2001.

This regulation covers resin and gel coat operations at fiberglass boat manufacturers, paint and coating operations at aluminum boat manufacturers, and carpet and fabric adhesive operations at all boat manufacturers. Owners/operators of boat manufacturing facilities are required to submit initial notification, performance tests, and periodic reports. Respondents are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Semiannual reports are also required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to 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, maintain 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. This information is being collected to assure compliance with 40 CFR Part 63, Subpart VVVV as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information are estimated to average 59 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: Boat manufacturing facilities.

Estimated Number of Respondents: 144.

Frequency of Response: Initially, quarterly and semiannually.

Estimated Total Annual Hour Burden: 26,327.

Estimated Total Costs: Include $0 annualized Capital Startup costs, $800 annualized Operating and Maintenance Costs (O&M), and $2,336,986 annualized Labor Costs.

Changes in the Estimates: There is an increase of 15,984 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The adjustment increase in burden from the most recently approved ICR is due to a shift from initial compliance to continuous compliance for the subject sources. There is also an increase of five additional new sources per year over the three years of this ICR. There is also an increase in the labor rates which contributed to an increase in the dollar cost burden.

Dated: May 23, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–10520 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0749; FRL–8320–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing (Renewal); EPA ICR Number 1611.06, OMB Control Number 2060–0327

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 July 2, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0749, 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: María Malavé, Compliance Assessment and Media Programs Division (Mail Code 2223A), Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7027; fax number: (202) 564–0050; e-mail address: *malave.maria@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 6, 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–2006–0749, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and

to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically, or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing (Renewal).

ICR Numbers: EPA ICR Number 1611.06, OMB Control Number 2060–0327.

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: The national emission standards for hazardous air pollutants (NESHAP) using maximum achievable control technology (MACT) for control of chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks were proposed on December 16, 1993 and promulgated on January 25, 1995.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports. Respondents that are not required to conduct an initial performance test (i.e., decorative chromium electroplating, or chromium anodizing operations that use a wetting agent and meet the surface tension limit required by the rule, and decorative chromium electroplating operations that use a trivalent chromium bath) are required to notify the Administrator of the initial compliance status of the source. Owners, or operators also are required to maintain records of a source's operations, including the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. The types of reports required by these standards include initial compliance status reports. Periodic reports required by this standard include annual compliance status reports for area sources and semiannual compliance status reports for major sources, unless an exceedance has occurred which requires sources to submit such reports on a more frequent basis. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP standards.

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 United States Environmental Protection Agency (EPA) regional office.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 83 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: Operators of hard chromium electroplating, decorative chromium electroplating, and chromium anodizing facilities/chromium electroplating, or chromium anodizing tanks.

Estimated Number of Respondents: 5,020.

Frequency of Response: Initially, quarterly, semiannually, annually.

Total Annual Hour Burden: 495,774 hours.

Estimated Total Annual Cost: $106,662,892, of which $75,300,000 accounts for annual O&M costs and $31,362,892 are labor costs. There are no annualized capital/startup costs associated with this ICR.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Second, the growth rate for the industry is very low, so there is no significant change in the overall burden.

Because there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR to estimate the industry and Federal Government burdens. There is one exception: The burden associated with regulators attending performance tests was deleted because that activity is considered part of the implementation of the enforcement program and cannot be attributed to this rule.

Dated: May 23, 2007.

Sara Hisel-McCoy,

Acting Director; Collection Strategies Division.

[FR Doc. E7–10521 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8319–6]

Reissuance of the NPDES General Permit for Oil and Gas Exploration, Development and Production Facilities Located in State and Federal Waters in Cook Inlet (Permit Number AKG–31–5000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final NPDES general permit.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) general permit authorizing discharges from exploration, development, and production platforms and related facilities in Cook Inlet, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 et seq. The general permit contains conditions and limitations that conform to the Offshore and Coastal Subcategories of the Oil and Gas Extraction Point Source Effluent

Limitations Guidelines, set forth at 40 CFR Part 435, subparts A and D, as well as additional requirements that ensure that the regulated discharges will not cause unreasonable degradation of the marine environment, as required by section 403(c) of the Clean Water Act (i.e., the Ocean Discharge Criteria), 33 U.S.C. 1343(c). New facilities seeking permit coverage must submit a Notice of Intent (NOI) at least 30 days prior to discharge.

The general permit expands the existing coverage area to include the Minerals Management Service Lease Sales Nos. 191 and 199, and the State waters adjoining those lease areas. The general permit also authorizes discharges from oil and gas exploration, development and production facilities, however, new development and production facilities are not authorized to discharge produced water, drilling fluids, or drill cuttings. A fact sheet has also been prepared which sets forth the principle factual, legal, policy, and scientific information considered in the development of the general permit.

DATES: The NPDES general permit shall become effective on July 2, 2007.

Public Comment: On April 1, 2004, the previous NPDES general permit expired. Pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, EPA proposed to reissue the general permit and solicited comments on the draft general permit in the **Federal Register** on March 1, 2006. Notice of the draft general permit was also published in the Anchorage Daily News, the Homer Tribune, and the Peninsula Clarion. There was an initial 60 day public comment period which EPA extended for an additional 30 days. Thus, the entire public comment period extended 90 days. Public hearings were held in Anchorage, Homer, and Kenai/Soldotna. The comment period ended on May 31, 2006.

Changes have been made from the draft permit to the final permit in response to comments received from Tribal representatives, environmental advocacy groups, industry representatives, government agencies, trade organizations, and individual citizens. All comments, along with EPA's responses, are summarized in the Response to Comment document and comment database.

ADDRESSES: Copies of the general permit, the Response to Comment document and comment database are available upon request. Written requests may be submitted to EPA Region 10, 1200 Sixth Avenue OWW–130, Seattle, WA 98101. Electronic requests may be e-mailed to: *washington.audrey@epa.gov or shaw.hanh@epa.gov.*

FOR FURTHER INFORMATION CONTACT: The general permit, Fact Sheet, Response to Comment document and comment database may be found on the Region 10 Web site at: *http://www.epa.gov/r10earth/waterpermits.htm* (under General Permits, Oil and Gas). Telephone requests for copies may be made to Audrey Washington at (206) 553–0523 or to Hanh Shaw at (206) 553–0171.

Other Legal Requirements

State Water Quality Standards and State Certification

Pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341, on May 18, 2007, the Alaska Department of Environmental Conservation (ADEC) certified that the conditions of the general permit comply with the Alaska State Water Quality Standards (Alaska Administrative Code 18 AAC 15, 18 AAC 70, and 18 AAC 72), including the State's antidegradation policy.

State of Alaska Coastal Zone Management Act

On May 31, 2006, the Department of Natural Resources, Office of Project Management and Permitting agreed with EPA's consistency determination under the Alaska Coastal Zone Management Act.

Endangered Species Act

EPA has determined that the issuance of the general permit is not likely to adversely affect any threatened or endangered species, designated critical habitat, or essential fish habitat. The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) concurred with EPA's determination.

Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to Office of Management and Budget (OMB) review.

Paperwork Reduction Act

The information collection requirements of this general permit were previously approved by the OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. However, general NPDES permits are not ''rules'' subject to the requirements of 5 U.S.C. 553(b), and is therefore not subject to the RFA.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state, and local governments and the private sector. However, the general permit issued today is not a ''rule'' subject to the RFA, and is therefore not subject to the UMRA.

Appeal of Permit

Any interested person may appeal the general permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the permit effective date. Persons affected by the permit may not challenge the conditions of the permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the permit in court or apply for an individual NPDES permit.

Signed this 21st day of May, 2007.

Michael F. Gearheard,

Director, Office of Water and Watersheds, Region 10.

[FR Doc. E7–10456 Filed 5–30–07; 8:45 am]

BILLING CODE 6560–50–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.: 010979–044.

Title: Caribbean Shipowners Association.

Parties: Bernuth Lines, Ltd.; CMA CGM, S.A.; Crowley Liner Services, Inc.;

Interline Connection, N.V.; Seaboard Marine, Ltd.; Seafreight Line, Ltd.; Tropical Shipping and Construction Co., Ltd.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Joe Espinosa, Agreement Administrator; Caribbean Shipowners Association; 101 NE Third Avenue, Suite 1500; Fort Lauderdale, FL 33301–1181.

Synopsis: The amendment deletes Hapag-Lloyd AG as a party to the agreement.

Agreement No.: 012000–001.

Title: CMA CGM/Maruba Amerigo Express Space Charter Agreement.

Parties: CMA CGM S.A. (''CMA CGM'') and Maruba S.A. (''Maruba'').

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment alters language to require the consent of CMA CGM prior to Maruba sub-chartering any slots to third parties.

Agreement No.: 012002.

Title: Hyundai/ELJSA Interim Slot Exchange Agreement.

Parties: Hyundai Merchant Marine Co., Ltd. and Evergreen Line Joint Service Agreement.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway, Suite 3000; New York, NY 10006–2802.

Synopsis: The agreement authorizes the parties to exchange container slots in the trade between U.S. East Coast ports and ports in China, Japan, South Korea, Taiwan, and Panama.

By Order of the Federal Maritime Commission.

Dated: May 25, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–10494 Filed 5–30–07; 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: 004619NF.

Name: Amad Corporation dba Amad Shipping dba Amad Forwarding.

Address: 1402 NW. 82nd Ave., Miami, FL 33126.

Date Revoked: May 13, 2007.

Reason: Failed to maintain valid bonds.

License Number: 012686N.

Name: Gulf American Line, Inc.

Address: 330 Snyder Ave., Berkeley Heights, NJ 07922.

Date Revoked: May 9, 2007.

Reason: Failed to maintain a valid bond.

License Number: 018499N.

Name: Hye Mi Express U.S.A., Inc.

Address: 3545 McCall Place, Ste. A, Doraville, GA 30340.

Date Revoked: May 12, 2007.

Reason: Failed to maintain a valid bond.

License Number: 017068F.

Name: Incare Cargo Service, Inc.

Address: 8402 Osage Ave., Los Angeles, CA 90045.

Date Revoked: May 11, 2007.

Reason: Failed to maintain a valid bond.

License Number: 002769F.

Name: New York Forwarding Services Inc.

Address: 330 Snyder Ave., Berkeley Heights, NJ 07922.

Date Revoked: May 13, 2007.

Reason: Failed to maintain a valid bond.

License Number: 019658F.

Name: Victor C. Chukwuocha dba Chukwuocha Motors.

Address: 5015 Lark Creek Court, Sugarland, TX 77479.

Date Revoked: May 9, 2007.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–10495 Filed 5–30–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Rescission of Order of Revocations

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 016783N.

Name: C & A Shipping, Inc.

Address: 100 Menlo Park, Suite 326, Edison, NJ 08827.

Order Published: FR: 04/25/07 (Volume 72, No. 79, Pg. 0549).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–10518 Filed 5–30–07; 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 Ocean Transportation Intermediary Applicants

Henry's Leads Inc. dba Henry's Ocean Freight, 7102 Drew Hill Lane, Chapel Hill, NC 27514. Officers: Qiang Fu, President (Qualifying Individual), Lixin Bai, Vice President.

Transworld Logistics, LLC, 1720 S. Norfolk Lane, Anaheim, CA 92802. Officers: Tahnee Kang, President (Qualifying Individual), Myung Hui Huh, Operating Manager.

H Shipping, Inc. dba Pumyang Worldwide Shipping, 15934 S. Figueroa Street, Gardena, CA 90248. Officer: Hyun Chul Lee, President (Qualifying Individual).

Newport Container Line, Inc., 5250 W. Century Blvd., Suite 602, Los Angeles, CA 90045. Officers: Mohammed Baki, Vice President (Qualifying Individual). Patrick Kwok, President/CEO.

Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Aegis International, Inc., 23 Serenity Court, Southampton, NJ 08088. Officers: Charles E. Godfrey, President (Qualifying Individual), Sandra C. Shaw, Secretary.

Tramex Corporation, 7270 NW 35 Terrace, Suite #202, Miami, FL 33122. Officers: Cesar Lizarzaburu, President

(Qualifying Individual), Ana Maria Lizarzaburu, Secretary.

Gold Coast Shipping, LLC, 2964 Main Street, Hartford, CT 06120. Officer: Micheal A. Wiafe, President (Qualifying Individual).

Integrated Freight Solutions, Inc., 851 Hinckley Road, Burlingame, CA 94010. Officers: Mark Taro Yamasaki, Secretary (Qualifying Individual), Henry Lung, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Seastar International, LLC, 46 Country Club Blvd., Scotch Plains, NJ 07076. Officer: Ying Zhao, Owner (Qualifying Individual).

First Class Exporters, 1147 Willing Ham Drive, East Point, GA 30344. Officers: Frank Obeng, Partner (Qualifying Individual), Elizabeth Lowe, Partner.

Dated: May 25, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–10498 Filed 5–30–07; 8:45 am]

BILLING CODE 6730–01–P

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 25, 2007.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. LSB Bancshares, Inc., Lexington, North Carolina; to merge with FNB Financial Services Corporation, Greensboro, North Carolina, and thereby indirectly acquire FNB Southeast, Reidsville, North Carolina.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. FSB Bancshares, Inc.; to become a bank holding company by acquiring 100 percent of the voting shares of First Security Bank and Trust Company, both in Oklahoma City, Oklahoma.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Providence Bancshares Corporation; to become a bank holding company by acquiring 100 percent of the voting shares of Providence Bank of Texas, both of Southlake, Texas (in organization).

D. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. First Community Holdings; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank, both of Santa Rosa, California.

Board of Governors of the Federal Reserve System, May 25, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–10423 Filed 5–30–07; 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 Web site 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 11, 2007.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BOK Financial Corporation, Tulsa, Oklahoma; to acquire 100 percent of the voting shares of United Banks of Colorado, Inc., and thereby indirectly acquire First United Bank National Association, both of Englewood, Colorado.

Board of Governors of the Federal Reserve System, May 25, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–10437 Filed 5–30–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1288]

Home Equity Lending Market; Notice of Hearings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Public hearing; request for comment.

SUMMARY: Section 158 of the Home Ownership and Equity Protection Act of 1994 (HOEPA) [1] directs the Board to hold public hearings periodically on the

[1] Pub. L. 103–325, 108 Stat. 2160.

home equity lending market and the adequacy of existing regulatory and legislative provisions (including HOEPA) in protecting the interests of consumers. Consequently, as previously announced, the Board will hold a hearing on the home equity lending market and invites the public to attend and to comment on the issues that will be the focus of the hearing. Additional information about the hearing will be posted to the Board's Web site at *http://www.federalreserve.gov.*

DATES: The date of the hearing is June 14, 2007.

Comments. Comments from persons unable to attend the hearing or otherwise wishing to submit written views on the issues raised in this notice must be received by August 15, 2007.

ADDRESSES: The location of the hearing is:

The Federal Reserve Board, 20th and C Streets, NW., Washington, DC 20551, in the Martin Building, Terrace Level, Dining Room E.

You may submit comments, identified by Docket No. OP–1288, by any of the following methods:

- Agency Web Site: *http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov*. Include the docket number in the subject line of the message.
- Fax: (202) 452–3819 or (202) 452–3102.
- Mail: Address to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments will be made available on the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Kathleen C. Ryan, Counsel, or Paul Mondor, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

1. HOEPA

In 1994, the Congress enacted the Home Ownership and Equity Protection Act (HOEPA) as an amendment to the Truth in Lending Act (TILA), in response to testimony about predatory home equity lending practices in underserved markets, where some lenders were making high-rate, high-fee home equity loans to cash-poor homeowners. HOEPA identifies a class of high-cost mortgage loans based on the loans' rates and fees. Loans above HOEPA's price triggers require additional disclosures and are subject to substantive restrictions on loan terms. HOEPA is implemented by the Board's Regulation Z (12 CFR 226.32 and 34).

Section 158 of HOEPA also directs the Board to hold public hearings periodically on the home equity lending market and the adequacy of existing regulatory and legislative provisions for protecting the interests of consumers, particularly low-income consumers. Hearings were held in 1997, 2000, and 2006. Following the 2000 hearings and the receipt of public comment, the Board amended the provisions of Regulation Z that implement HOEPA. These revisions included extending HOEPA's coverage to more loans, enhancing disclosures for HOEPA loans, and expanding its substantive restrictions. The revisions took effect in October 2002.

In addition to the Board's general grant of rulewriting authority under HOEPA, Section 129(l)(2) of HOEPA also confers regulatory authority on the Board to prohibit acts or practices:

- *In connection with mortgage loans*—if the Board finds the practice to be unfair, deceptive, or designed to evade HOEPA; and
- *In connection with refinancings of mortgage loans*—if the Board finds that the practice is associated with abusive lending practices or otherwise not in the interest of the borrower.

2. The Board's 2006 Hearings

The Board's most recent hearings under HOEPA covered three broad topics: (1) The impact of the 2002 HOEPA rule changes and state and local predatory lending laws on predatory lending practices; (2) nontraditional mortgage products and reverse mortgages; and (3) informed consumer choice in the subprime market. Hearing panelists included mortgage lenders and brokers, credit ratings agencies, realtors, consumer advocates, community development groups, housing counselors, academicians, researchers, and state and Federal Government officials.

Consumer advocates and some state officials stated that HOEPA (and state predatory lending laws) are generally effective in preventing loans with abusive terms from being made for loans subject to the HOEPA price triggers. Some advocated that Congress should lower HOEPA's coverage triggers so that more loans are subject to HOEPA. Consumer advocates and state officials urged regulators and Congress to take action to curb abusive practices for loans that do not meet HOEPA's price triggers.

Consumer advocates urged the Board to prohibit or restrict certain loan features or terms, such as prepayment penalties, and underwriting practices such as ''stated income'' or ''low documentation'' (''low doc'') loans where the borrower's income is not documented or verified. They also expressed concern about aggressive marketing practices that include steering borrowers to higher-cost loans by emphasizing initial low monthly payments based on an introductory rate without adequately explaining that the consumer will have considerably higher monthly payments after the introductory rate expires. Finally, some consumer advocates stated that brokers and lenders should be held to a fiduciary standard such as a duty of good faith and fair dealing or a requirement that they make only loans that are suitable for a particular borrower.

Industry panelists and commenters, on the other hand, expressed concern that HOEPA may reduce the availability of credit for some subprime borrowers. They stated that state predatory lending laws may also reduce credit availability. Most industry commenters opposed prohibitions on stated income loans, prepayment penalties, and other loan terms, asserting that these features could benefit some borrowers. They urged the Board and other regulators to focus instead on enforcing existing laws to remove ''bad actors'' from the market. Some lenders indicated, however, that carefully constructed reasonable restrictions on certain loan features or practices might be appropriate if the conditions were clear and would not unduly reduce credit availability. Fiduciary responsibilities would, in industry's view, create conflicts for lenders, who are responsible to their shareholders. Industry commenters also stated that subjective suitability

standards would create uncertainties for brokers and lenders and subject them to litigation risk.

II. Information About the Board's 2007 Hearing

The June 14th hearing is open to the public to attend. Seating will be limited, however. All visitors must register at least 24 hours in advance for security purposes and may access the Board's online registration service at *https://www.federalreserve.gov/secure/forms/hoeparegistration.cfm.* Further information about the hearing, as it becomes available, will be posted on the Board's Web site at *http://www.federalreserve.gov.* The hearing will begin at 8:30 a.m. and conclude at 4 p.m. (EST).

The Board will invite persons to participate in panel discussions on the topics discussed below. In addition to the panel discussions, the Board intends to reserve about one hour after the conclusion of the panels, at 3 p.m., to permit interested parties other than those on the panels to make brief statements. To allow as many persons as possible to offer their views during this period, oral statements will be limited to three minutes or less; written statements of any length may be submitted for the record. Interested parties who wish to participate during this ''open-mike'' period may contact the Board in advance of the hearing date at the telephone numbers provided in this notice, to facilitate planning for this portion of the hearings.

III. 2007 Hearing Discussion and Request for Comment

This hearing will examine how the Board might use its rulemaking authority under section 129(l)(2) of HOEPA to address concerns about abusive lending practices in the mortgage market, including the subprime mortgage market. The purpose of the hearing is to enable the Board to gather information to evaluate whether it can address issues about predatory lending in a way that preserves incentives for responsible lenders to provide credit to borrowers, particularly subprime borrowers.

The Board solicits comment on whether it should use its rulemaking authority to address concerns about the loan terms or practices listed below, and any others that commenters identify. Commenters are requested to discuss whether these terms or practices are associated with unfairness or deception, evasion of HOEPA, abusive lending, or are not otherwise in the interest of borrowers. In addition, commenters are requested to address whether the term or practice should be prohibited or restricted for all mortgage loans, only for loans offered to subprime borrowers, or other subsets of loans such as loans to first-time homebuyers, home purchase loans, or refinancings and home equity loans; only certain products, such as adjustable rate mortgages or nontraditional mortgages.[2] Comment is also requested on the effectiveness of state laws that have prohibited or restricted the practices listed below (and others) and whether the Board should consider adopting similar regulations to curb abuses without restricting access to responsible mortgage lending.

A. *Prepayment penalties.* Consumer advocates state that prepayment penalties deter a consumer from refinancing the loan on more favorable terms and that consumers do not receive any benefit in return. Consumer advocates are also concerned about prepayment penalties that extend beyond the expiration of an introductory or teaser rate on an ARM, which deter consumers from refinancing to avoid payment shock when the rate resets. Consequently, some consumer advocates recommend that penalties be banned or restricted for such loans. According to industry representatives, however, prepayment penalties ensure a minimum return on the transaction if loans are paid off early. Industry representatives also state that consumers receive, in return, a benefit in the form of lower up-front costs or lower interest rates.

The Board requests comment on the following questions related to prepayment penalties:

- Should prepayment penalties be restricted? For example, should prepayment penalties that extend beyond the first adjustment period on an ARM be prohibited?
- Would enhanced disclosure of prepayment penalties help address concerns about abuses?
- How would a prohibition or restriction on prepayment penalties affect consumers and the type and terms of credit offered?

B. *Escrow for taxes and insurance on subprime loans.* Loans to prime borrowers typically include an escrow for taxes and insurance, while loans to subprime borrowers typically do not include escrows. Consumer advocates are concerned that subprime borrowers are not aware of, and may not be able to budget for, these expenses. They are also concerned that lenders quote monthly payments to subprime borrowers that do not include taxes and insurance, and these borrowers do not realize that they will have to budget separately for these obligations.

The Board requests comment on the following questions related to escrows for taxes and insurance:

- Should escrows for taxes and insurance be required for subprime mortgage loans? If escrows were to be required, should consumers be permitted to ''opt out'' of escrows?
- Should lenders be required to disclose the absence of escrows to consumers and if so, at what point during a transaction? Should lenders be required to disclose an estimate of the consumer's tax and insurance obligations?
- How would escrow requirements affect consumers and the type and terms of credit offered?

C. *''Stated income'' or ''low doc'' loans.* In some cases a lender will make a mortgage loan without documenting or verifying a borrower's income; lenders may charge higher rates for such loans. Lenders state that these loans are appropriate for many borrowers, including those who are self-employed and cannot easily document their income or who choose not to. Consumer advocates state that many borrowers who could document their income are not aware that they are getting a stated income loan with a higher rate. They state that some brokers and lenders use ''stated income'' or ''low doc'' loans to perpetrate fraud (e.g., the consumer's income is falsified or ''marked up'' by a broker or loan officer and is not verified by the lender). Concerns have also been raised about the use of stated income loans with other ''risk layering features'' such as second-lien loans for all or part of the consumer's downpayment.

The Board requests comment on the following questions related to stated income and low doc loans:

- Should stated income or low doc loans be prohibited for certain loans, such as loans to subprime borrowers?
- Should stated income or low doc loans be prohibited for higher-risk loans, for example, for loans with high loan-to-value ratios?
- How would a restriction on stated income or low doc loans affect consumers and the type and terms of credit offered?
- Should lenders be required to disclose to the consumer that a stated income loan is being offered and allow the consumer the option to document income?

[2] Nontraditional mortgage products are mortgage loans that allow borrowers to defer repayment of principal and, sometimes, interest. They include interest-only loans and ''payment option'' ARMs where a borrower has flexible payment options with the potential for negative amortization.

D. *Unaffordable loans.* Consumer advocates state that some lenders extend loans without adequately considering the borrower's ability to repay the loan. For example, lenders may qualify borrowers based on an ARM's introductory rate and not at the fully-indexed rate that will apply once the introductory rate expires. Lenders state that it is appropriate to make such loans in certain circumstances, for example, where the borrower is likely to be able to refinance the loan at a lower rate before the reset date. Other circumstances include those in which borrowers expect to sell their home within a few years, or expect a significant decrease in their monthly obligations or a significant increase in income, such as a borrower who is completing professional training. Because loans are frequently sold to purchasers who generally cannot be held liable for the loan originator's actions, and because the risk of default is spread out among investors in loan pools, some consumer advocates believe that there is insufficient accountability for making loans that consumers cannot repay.

Recently the Board and the other banking and thrift regulators issued guidance on underwriting nontraditional mortgage products. The guidance provides that:

> An institution's analysis of a borrower's repayment capacity should include an evaluation of their ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. In addition, for products that permit negative amortization, the repayment analysis should be based upon the initial loan amount plus any balance increase that may accrue from the negative amortization provision.

71 FR 58609, 58614 (Oct. 4, 2006) (footnotes omitted).

Some have urged that lenders should be required to underwrite *all* mortgage loans based on a fully-indexed rate and a fully amortizing payment. Some have also advocated a rebuttable presumption that a borrower cannot afford to repay a loan if the borrower's debt-to-income ratio exceeds 50 percent and that such loans should be prohibited by regulation.

The Board requests comment on the following questions:

- Should lenders be required to underwrite all loans based on the fully-indexed rate and fully amortizing payments?
- Should there be a rebuttable presumption that a loan is unaffordable if the borrower's debt-to-income ratio exceeds 50 percent (at loan origination)?
- Are there specific consumer disclosures that would help address concerns about unaffordable loans?
- How would such provisions affect consumers and the type and terms of credit offered?

By order of the Board of Governors of the Federal Reserve System, May 24, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–10395 Filed 5–30–07; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council

Sunshine Act Meeting

TIME AND DATE: 1:30 p.m. (Eastern Time), June 12, 2007.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the February 7, 2007 meeting.
2. Nomination of Council Chairman and election of Vice Chairman.
3. Report of the Executive Director on Thrift Savings Plan Status.
4. Discussion of three potential FRTIB legislative proposals (automatic enrollment, L Fund default investments, Roth feature).
5. Other proposals.
6. New business.

CONTACT PERSON FOR MORE INFORMATION: Thomas K. Emswiler, Committee Management Officer, (202) 942–1660.

Dated: May 25, 2007.

Thomas K. Emswiler,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 07–2703 Filed 5–29–07; 9:44 am]

BILLING CODE 6760–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Appointments to the Medicare Payment Advisory Commission

AGENCY: Government Accountability Office (GAO).

ACTION: Notice of appointments.

SUMMARY: The Balanced Budget Act of 1997 established the Medicare Payment Advisory Commission (MedPAC) and gave the Comptroller General responsibility for appointing its members. This notice announces three new appointments and four reappointments to fill the vacancies occurring this year.

DATES: Appointments are effective May 1, 2007 through April 30, 2010, except as noted.

ADDRESSES: GAO: 441 G Street, NW., Washington, DC 20548. MedPAC: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: GAO Office of Public Affairs, (202) 512–4800. MedPAC: Mark E. Miller, PhD, (202) 220–3700.

SUPPLEMENTARY INFORMATION: To fill this year's vacancies I am announcing the following:

Newly appointed members are Thomas M. Dean, M.D., Chief of Staff, Avera Weskota Memorial Medical Center; Jack C. Ebeler, Independent consultant; and Bruce Stuart, PhD, professor and executive director, Peter Lamy Center on Drug Therapy and Aging, University of Maryland Baltimore. Professor Stuart is appointed to complete the remaining two years of Douglas Holtz-Eakin's three-year term that began in 2006. Holtz-Eakin resigned from his position on MedPAC effective May 2, 2007.

Reappointed members are John M. Bertko, F.S.A., M.A.A.A., vice president and chief actuary, Humana Inc.; Francis J. Crosson, M.D., executive director, the Permanente Federation, LLC; Arnold Milstein, M.D., M.P.H., medical director, Pacific Business Group on Health; and William J. Scanlon, PhD, health policy consultant.

(Sec. 4022, Pub. L. 105–33, 111 Stat. 251, 350)

David M. Walker,

Comptroller General of the United States.

[FR Doc. 07–2680 Filed 5–30–07; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agreed to be available, to conduct on an as needed basis,

scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for ''Ambulatory Safety and Quality Program: Improving Quality through Clinician Use of Health IT (R18),'' are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: Ambulatory Safety and Quality Program: Improving Quality through Clinician Use of Health IT (R18).

Date: July 10–12, 2007 (Open on July 11 from 8 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priority dictate.

Dated: May 22, 2007.

Carolyn M. Clancy,

Director.

[FR Doc. 07–2688 Filed 5–30–07; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide, on behalf of AHRQ, review of contract proposals and recommendations to the Director, AHRQ, regarding the technical merit of proposals submitted in response to a Request for Proposals (RFPs) regarding ''Evidence-based Practice Centers'', issued on March 8, 2007.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for HealthCare Research and Quality, ''Evidence-based Practice Centers''.

Date: June 11–12, 2007.

Place: Agency for HealthCare Research and Quality, 540 Gaither Road, Conference Center, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Beth Collins-Sharp, Center for Outcomes and Evidence, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1503.

Dated: May 22, 2007.

Carolyn M. Clancy,

Director.

[FR Doc. 07–2681 Filed 5–25–07; 10:42 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Occupational Health and Safety Research Member Conflict, Program Announcement (PA) 04–038

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Time and Date: 1 p.m.–4 p.m., July 12, 2007 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to ''Occupational Health and Safety Research Member Conflict,'' PA 04–038.

Contact Person for More Information: George Bockosh, Scientific Review Administrator, 625 Cochrans Mill Road, Mailstop P–05, Pittsburgh, PA 15222, telephone (412) 386–6465.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–10421 Filed 5–30–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Applied Research in Antimicrobial Resistance: Studies of Susceptibility Testing on Gram-negative Multidrug Resistant Organisms, Funding Opportunity Announcement (FOA) CI07–003

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Time and Date: 12 p.m.–4 p.m., June 28, 2007 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to FOA CI07–003, ''Applied Research in Antimicrobial Resistance: Studies of Susceptibility Testing on Gram-negative Multidrug Resistant Organisms.''

Contact Person for More Information: Trudy Messmer, PhD, Scientific Review Administrator, 1600 Clifton Road, Mailstop C–19, Atlanta, GA 30333, telephone (404) 639–2176.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and

other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–10422 Filed 5–30–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Travelers' Health Research Centers—Evaluation of Measures To Protect the Health of International Travelers, Funding Opportunity Announcement (FOA) CI07–002

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Time and Date:

12 p.m.–4 p.m., June 29, 2007 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to FOA CI07–002, ''Travelers'' Health Research Centers—Evaluation of Measures To Protect the Health of International Travelers.''

Contact Person for More Information: Trudy Messmer, PhD, Scientific Review Administrator, 1600 Clifton Road, Mailstop C–19, Atlanta, GA 30333, telephone (404) 639–2176.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–10433 Filed 5–30–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Racial and Ethnic Approaches to Community Health Across the United States (REACH US), Request for Applications (RFA) DP07–707

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Times and Dates:

8 a.m.–5 p.m., June 18, 2007 (Closed).

8 a.m.–5 p.m., June 19, 2007 (Closed).

8 a.m.–5 p.m., June 20, 2007 (Closed).

8 a.m.–5 p.m., June 21, 2007 (Closed).

8 a.m.–5 p.m., June 22, 2007 (Closed).

Place: Atlanta Marriott Century Center Hotel, 2000 Century Boulevard, NE., Atlanta, GA 30345, Telephone (404) 325–0000.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to RFA DP07–707, ''Racial and Ethnic Approaches to Community Health Across the United States (REACH US).''

Contact Person for More Information: Thijuanie Lockhart, Program & Management Analyst, CDC, 4770 Buford Highway, NE., Mail Stop K–30, Atlanta, GA 30341, Telephone (404) 488–5303.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–10434 Filed 5–30–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Improving Public Health Practice Through Translation Research, Request for Applications (RFA) CD07–005

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Times and Dates: 9 a.m.–5 p.m., June 25, 2007 (Closed). 9 a.m.–5 p.m., June 26, 2007 (Closed).

Place: Doubletree Buckhead Hotel, 3342 Peachtree Road, N.E., Atlanta, GA 30326.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of the scientific merit of research applications in response to RFA CD07–005, ''Improving Public Health Practice Through Translation Research.''

Contact Person for More Information: Christine J. Morrison, PhD, Scientific Review Administrator, 1600 Clifton Road, NE., Mailstop D72, Atlanta, GA 30333, telephone (404) 639–3098.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 24, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–10436 Filed 5–30–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1999D–1651] (formerly Docket No. 99D–1651)

Guidance for Industry: Chemistry, Manufacturing, and Control Changes to an Approved New Animal Drug Application or Abbreviated New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry (#83) entitled ''Chemistry, Manufacturing, and Control Changes to an Approved NADA or ANADA.'' This guidance is intended to provide recommendations to holders of new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) on how they should report certain changes to such applications, in accordance with the final regulation, 21 CFR 514.8, which was issued in the **Federal Register** of December 13, 2006 (71 FR 74766).

DATES: Comments on agency guidances are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document. Submit written comments on the guidance document to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Dennis Bensley, Jr., Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–6956, e-mail: *dennis.bensley@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 1, 1999 (64 FR 53281), FDA published a proposed rule to implement section 506A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356a) for NADAs and ANDAs. In that same issue of the **Federal Register** (64 FR 53393), FDA published a notice announcing the availability of a draft guidance for industry entitled ''Chemistry, Manufacturing, and Control Changes to an Approved NADA or ANADA,'' giving interested persons until December 15, 1999, to submit comments. FDA considered all comments received and, where appropriate, incorporated them into the guidance.

This guidance covers recommended reporting categories for various postapproval manufacturing changes and provides recommendations to holders of NADAs and ANADAs on how they should report such changes in accordance with the final regulation, 21 CFR 514.8, issued in the **Federal Register** of December 13, 2006 (71 FR 74766). Recommendations are provided for postapproval changes in: (1) Components and composition, (2) manufacturing sites, (3) manufacturing process, (4) specifications, (5) container closure system, as well as (6) miscellaneous changes and (7) multiple related changes. This guidance does not provide recommendations on the specific information that should be developed by an applicant to assess the effect of the change on the identity, strength (e.g., assay, content uniformity), quality (e.g., physical, chemical, and biological properties), purity (e.g., impurities and degradation products), or potency (e.g., biological activity, bioavailability, bioequivalence) of a drug as these factors may relate to the safety or effectiveness of the drug. An applicant should consider all relevant FDA guidance documents for recommendations on the information that should be submitted to support a given change.

II. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the agency's current thinking on the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in sections II through XI of the guidance have been approved under OMB Control No. 0910–0600.

IV. Comments

As with all of FDA's guidance, the public is encouraged to submit written or electronic comments with new data or other new information pertinent to this guidance. FDA periodically will review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments should be identified with the full title of the guidance document and the docket number found in brackets in the heading of this document. A copy of the document and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Persons with access to the Internet may obtain a copy of the guidance document entitled ''Chemistry, Manufacturing and Control Changes to an Approved NADA or ANADA'' from the CVM home page at *http://www.fda.gov/cvm*.

Dated: May 22, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–10515 Filed 5–30–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0168]

Draft Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces the availability of draft guidances for industry that describe recommendations on how to design bioequivalence (BE) studies for 200 specific drug products to support abbreviated new drug applications (ANDAs). These draft guidances are being made available

concurrently with the publication of a draft guidance for industry entitled ''Draft Guidance for Industry—Bioequivalence Recommendations for Specific Products'' (product specific BE recommendations). This draft guidance describes the new process for making available guidance on product-specific BE studies. Under the process described in the draft guidance, draft and final product-specific BE study guidance will be made available on the FDA Web site. FDA believes that making this information available on the Internet will streamline the guidance process and provide a meaningful opportunity for the public to consider and comment on product-specific BE study recommendations. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a related guidance document entitled ''Draft Guidance for Industry—Bioequivalence Recommendations for Specific Products.''

DATES: Submit written or electronic comments on the draft guidances by September 28, 2007. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of draft product-specific BE study guidances to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Doan T. Nguyen, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0495.

SUPPLEMENTARY INFORMATION:

I. Background

To receive approval for an ANDA, an applicant generally must demonstrate, among other things, that its product has the same active ingredient, dosage form, strength, route of administration and conditions of use as the listed drug, and that the proposed drug product is bioequivalent to the reference listed drug (21 U.S.C. 355(j)(2)(A); 21 CFR 314.94(a)). Bioequivalent drug products show no significant difference in the rate and extent of absorption of the therapeutic ingredient (21 U.S.C. 355(j)(8); 21 CFR 320.1(e)). BE studies are undertaken in support of ANDA submissions with the goal of demonstrating BE between a proposed generic drug product and its reference listed drug. The regulations governing BE are provided at 21 CFR in part 320.

The draft guidance entitled ''Bioequivalence Recommendations for Specific Products'' describes the following process for making available draft and final product-specific BE recommendations:

- FDA will develop product-specific BE recommendations and post them on the Center for Drug Evaluation and Research (CDER) guidance page (*http://www.fda.gov/cder/index.html*) in draft to facilitate public consideration and comment. The recommendations can be viewed by clicking on the URL associated with the ''Bioequivalence Recommendations for Specific Products'' guidance on the CDER guidance page or on the Office of Generic Drugs Page (see *www.fda.gov/cder/ogd/index.htm*). Users can also search for a specific product BE recommendation using the search tool on the CDER guidance page.
- Newly posted draft and final BE recommendations will be announced in the ''Newly Added Guidance Documents'' list, which is posted monthly on the CDER guidance page.
- The agency will issue a notice in the **Federal Register** announcing the availability on the FDA web site of new product-specific draft and final BE recommendations. The notice will identify a comment period for the recommendations.
- Comments on product-specific BE recommendations will be considered in developing final BE recommendations.
- The BE recommendations will be revised as appropriate to ensure that the most up-to-date BE information is available to the public.

FDA is making the first group of draft product-specific BE recommendations available concurrently with the issuance of the draft guidance document describing the process.

II. Drug Products for Which Draft Product-Specific BE Recommendations Are Available

The FDA is making available draft recommendations for drug products containing the following active ingredients:

A

Abacavir Sulfate
Abacavir Sulfate; Lamivudine; Zidovudine
Acamprosate Calcium
Acitretin
Acyclovir
Almotriptan Malate
Alosetron HCl
Alprazolam
Amlodipine Besylate
Amlodipine Besylate; Benazepril HCl
Amoxicillin; Clavulanate Potassium
Anagrelide HCl
Anastrozole
Aprepitant
Atazanavir Sulfate
Atomoxetine HCl
Atorvastatin Calcium

B

Benzonatate
Benzphetamine HCl
Bicalutamide
Bisoprolol Fumarate
Bisoprolol Fumarate; Hydrochlorothiazide

C

Candesartan Cilexetil
Candesartan Cilexetil; Hydrochlorothiazide
Carbamazepine
Carbidopa; Entacapone; Levodopa
Carvedilol
Cefditoren Pivoxil
Celecoxib
Cetirizine HCl
Cevimeline HCl
Cilostazol
Cinacalcet HCl
Clarithromycin
Clonidine HCl
Clopidogrel

D

Danazol
Dantrolene Sodium
Darifenacin HBr
Deferasirox
Desloratadine
Dextromethorphan Polistirex
Diclofenac Sodium; Misoprostol
Dicloxacillin Sodium
Didanosine (multiple dosage forms)
Digoxin
Dipyridamole
Divalproex Sodium
Dofetilide
Donepezil HCl
Doxazosin Mesylate
Drospirenone; Estradiol
Duloxetine HCl (multiple dosage forms)
Dutasteride

E

Efavirenz (multiple dosage forms)
Emtricitabine
Entacapone
Entecavir
Eplerenone
Erlotinib HCl
Escitalopram Oxalate
Esomeprazole Magnesium
Etidronate Disodium
Exemestane

F

Famotidine (multiple dosage forms)
Felbamate (multiple dosage forms)
Fenofibrate
Fexofenadine HCl (multiple dosage forms)
Flavoxate HCl
Fluconazole
Fluoxetine HCl; Olanzapine

Fosamprenavir Calcium
Fosinopril Sodium; Hydrochlorothiazide

G
Gabapentin (multiple dosage forms)
Galantamine HBr
Ganciclovir
Gemifloxacin Mesylate
Glimepiride
Glipizide; Metformin HCl
Glyburide; Metformin HCl
Granisetron HCl

H
Hydrochlorothiazide
Hydrochlorothiazide; Lisinopril
Hydrochlorothiazide; Losartan Potassium
Hydrochlorothiazide; Moexipril HCl
Hydrochlorothiazide; Olmesartan Medoxomil
Hydrochlorothiazide; Valsartan

I
Ibandronate Sodium
Ibuprofen; Pseudoephedrine HCl
Indinavir Sulfate
Irbesartan
Isosorbide Mononitrate
Isradipine (multiple dosage forms)
Itraconazole

L
Lamivudine
Lamivudine; Zidovudine
Lamotrigine (multiple dosage forms)
Leflunomide
Liothyronine Sodium
Losartan Potassium

M
Mefloquine HCl
Meloxicam (multiple dosage forms)
Mercaptopurine
Mesalamine
Metaxalone
Metformin HCl
Metformin HCl; Pioglitazone HCl
Miglustat
Mirtazapine
Modafinil
Moexipril HCl
Montelukast Sodium
Morphine Sulfate
Mycophenolate Mofetil
Mycophenolate Mofetil HCl

N
Nabumetone
Nateglinide
Nelfinavir Mesylate
Nevirapine

O
Olanzapine
Olmesartan Medoxomil
Olsalazine Sodium
Omeprazole (multiple dosage forms)
Omeprazole Magnesium
Ondansetron (multiple dosage forms)
Oxcarbazepine (multiple dosage forms)

P
Pantoprazole Sodium
Perindopril Erbumine
Pilocarpine HCl
Pravastatin Sodium

Q
Quetiapine Fumarate
Quinapril HCl

R
Raloxifene HCl
Ramipril
Ribavirin (multiple dosage forms)
Rifampin
Riluzole
Risedronate Sodium; Calcium Chloride
Risedronate Sodium
Risperidone
Ritonavir
Rizatriptan Benzoate
Rosiglitazone Maleate
Rosuvastatin Calcium

S
Sertraline HCl
Sibutramine HCl
Sildenafil Citrate
Simvastatin
Sirolimus
Stavudine
Sulfamethoxazole; Trimethoprim
Sumatriptan Succinate

T
Tacrolimus
Tadalafil
Tamsulosin HCl
Telithromycin
Telmisartan
Terbinafine HCl
Testosterone
Ticlopidine HCl
Tizanidine HCl
Tolterodine Tartrate
Topiramate (multiple dosage forms)
Torsemide
Tramadol HCl
Tramadol HCl; Acetaminophen
Trandolapril
Triamterene

V
Valacyclovir HCl
Valsartan
Vardenafil HCl
Venlafaxine HCl
Verapamil HCl (multiple dosage forms)
Voriconazole

Z
Zaleplon
Zidovudine (multiple dosage forms)
Ziprasidone HCl
Zolpidem Tartrate

These draft guidances are available on the CDER guidance page and may be viewed by clicking on the URL associated with the draft ''Bioequivalence Recommendations for Specific Products'' guidance on the CDER guidance page or on the Office of Generic Drugs Page (see *www.fda.gov/cder/ogd/index.htm*). Users can also search for a specific product BE recommendation using the search tool on the CDER guidance page.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidances represent the agency's current thinking on the design of product-specific bioequivalence studies to support ANDAs. Guidance does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the draft product-specific BE recommendations at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: May 22, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–10491 Filed 5–30–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0169]

Draft Guidance for Industry on Bioequivalence Recommendations for Specific Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that describes a new process for making available recommendations on how to design product-specific bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). Under this process, applicants planning to carry out such studies in support of their ANDAs will be able to access BE study guidance on the FDA Web site. FDA believes that making this information available on the Internet

will streamline the guidance process and will provide a meaningful opportunity for the public to consider and comment on product-specific BE study recommendations. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the first group of draft product-specific BE recommendations.

DATES: Submit written or electronic comments on the draft guidance by August 29, 2007. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Doan T. Nguyen, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0495.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Specific Products.'' To receive approval for an ANDA, an applicant generally must demonstrate, among other things, that its product has the same active ingredient, dosage form, strength, route of administration and conditions of use as the listed drug, and that the proposed drug product is bioequivalent to the reference listed drug (21 U.S.C. 355(j)(2)(A); 21 CFR 314.94(a)). Bioequivalent drug products show no significant difference in the rate and extent of absorption of the therapeutic ingredient (21 U.S.C. 355(j)(8); 21 CFR 320.1(e)). BE studies are undertaken in support of ANDA submissions with the goal of demonstrating BE between a proposed generic drug product and its reference listed drug. The regulations governing BE are provided at 21 CFR in part 320.

Previously, the Office of Generic Drugs (OGD) has provided information on how to design BE studies for specific products only when asked for assistance by individual applicants. In most cases, the requested information was not available anywhere else, and, in some cases, OGD performed its own research before responding to an applicant's request for information. In many cases, FDA responded to individual applicants in letter format after specific recommendations were prepared by individuals within the Center for Drug Evaluation and Research (CDER). With the increasing number of both ANDA submissions and requests for BE information during the last few years, this approach has become inefficient and extremely time consuming for the agency.

As a result, after exploring various mechanisms that would allow us to conserve our resources while responding to the needs of industry and other interested persons, OGD has developed a new approach to making guidance available on product-specific BE studies. As before, BE recommendations will be developed by the agency based on its understanding of the characteristics of the listed drug, information derived from published literature, agency research, and consultations within different offices in CDER as needed based upon the novelty or complexity of the BE considerations. FDA proposes that, once drafted, product-specific BE recommendations will be made available through the process described in the guidance.

II. Procedures for Making BE Recommendations Available

To streamline the process for making guidance available to the public on how to design product-specific BE studies, the agency intends to use the following process:

- Product-specific BE recommendations will be developed and posted on the CDER guidance page at *http://www.fda.gov/cder/index.html* in draft to facilitate public consideration and comment.
- The recommendations can be viewed by clicking on the URL associated with this guidance on the CDER guidance page (*http://www.fda.gov/cder/index.html*) or on the OGD page (see *www.fda.gov/cder/ogd/index.htm*). Users can also search for a specific product BE recommendation using the search tool on the guidance page.
- Newly posted draft and final BE recommendations will be announced in the New/Revised/Withdrawn list, which is posted monthly on the CDER guidance page.
- The agency will issue a notice in the **Federal Register** announcing the availability on the FDA Web site of new product-specific draft and final BE recommendations. The notice will identify a comment period for the recommendations.
- Comments on product-specific BE recommendations will be considered in developing final BE recommendations.
- The BE recommendations will be revised as appropriate to ensure that the most up-to-date BE information is available to the public.

FDA has decided to make the first group of BE recommendations available concurrently with the issuance of this draft guidance document. A notice of availability of the first group of draft product-specific BE recommendations is also being published today. It includes a list of the drug products for which draft BE recommendations are available. Comments on the product-specific draft guidances are requested within 120 days.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on a new process for making available to sponsors FDA guidance on how to design product-specific bioequivalence studies to support ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: May 22, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–10492 Filed 5–30–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; The Jackson Heart Study (JHS)

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 25, 2006, pages 62476–62477, and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: The Jackson Heart Study (JHS). *Type of Information Collection Request:* Extension of a currently approved collection (OMB NO. 0925–0491). *Need and Use of Information Collection:* This project involves annual follow-up by telephone of participants in the JHS, review of their medical records, and interviews with doctors and family to identify disease occurrence. Interviewers will contact doctors and hospitals to ascertain participants' cardiovascular events. Information gathered will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in African American men and women. *Frequency of Response:* One time. *Affected Public:* Individuals or households; Businesses or other for profit; Small businesses or organizations. *Type of Respondents:* Individuals or households; Businesses or other for profit; not-for-profit institutions. The annual reporting burden is as follows: *Estimated Number of Respondents:* 600; *Estimated Number of Responses per Respondent:* 1.0; *Average Burden Hours Per Response:* 0.5 and *Estimated Total Annual Burden Hours Requested:* 300. The annualized cost to respondents is estimated at $9,500. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

ESTIMATE OF ANNUAL HOUR BURDEN

Type of response	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Morbidity & Mortality AFU 3rd Party/Next-of-kin decedents	300	1	0.5	150
Morbidity & Mortality AFU 3rd Party Physicians	300	1	0.5	150
Total	600			300

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: 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: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Cheryl Nelson, Project Officer, NIH, NHLBI, 6701 Rockledge Drive, MSC 7934, Bethesda, MD 20892–7934, or call non-toll-free number 301–435–0451 or E-mail your request, including your address to: *NelsonC@nhlbi.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: May 22, 2007.

Peter Savage,

Acting Director.

Dated: May 22, 2007.

Suzanne A. Freeman,

Project Clearance Officer.

[FR Doc. 07–2698 Filed 5–30–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Co-Exclusive License: Developing, Manufacturing and Selling Instruments, Reagents and Related Products and Providing Services Involving Sequencing Nucleic Acids, Including Without Limitations Diagnostic Devices and Services

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a co-exclusive license to practice the invention embodied in Patent Applications U.S. 60/151,580, filed August 29, 1999; PCT/US00/23736, filed August 29, 2000, U.S. 6,982,146 issued January 3, 2006, and USSN 11/204,367, filed August 12, 2005; entitled ''High Speed Parallel Molecular Nucleic Acid Sequencing'', to Invitrogen Corporation having a place of business in Carlsbad,

California. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license that are received by the NIH Office of Technology Transfer on or before July 30, 2007 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Cristina Thalhammer-Reyero, PhD, M.B.A., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; E-mail: *ThalhamC@mail.nih.gov*; *Telephone*: 301–435–4507; *Facsimile*: 301–402–0220.

SUPPLEMENTARY INFORMATION: The invention relates to a method and apparatus for high-speed, parallel molecular nucleic acid sequencing, also known as Two Dye Sequencing (TDS). This invention is based on Fluorescence Resonance Energy Transfer (FRET), a technology increasingly in use for several molecular analysis purposes. In particular, the method consists of: (1) Attachment of engineered DNA polymerases labeled with a donor fluorophore to the surface (chamber) of a microscope field of view, (2) addition to the chamber of DNA with an annealed oligonucleotide primer and template, which is bound by the polymerase, (3) further addition of four nucleotide triphosphates, each labeled on the base with a different fluorescent acceptor dye, (4) excitation of the donor fluorophore with light of a wavelength specific for the donor but not for any of the acceptors, resulting in the FRET transfer of the energy associated with the excited state of the donor to the acceptor fluorophore for a given nucleotide, which is then radiated, (5) identification of the nucleotides most recently added to the primer by recording the fluorescent spectrum of the individual dye molecules at specific locations in the microscope field, and (6) converting the sequential spectrum into a DNA sequence for each DNA molecule in the microscope field of view.

The prospective co-exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective co-exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to ''Developing, manufacturing and selling instruments, reagents and related products and providing services involving sequencing nucleic acids, including without limitations diagnostic devices and services''.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 24, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–10478 Filed 5–30–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Environmental Health Sciences

Office of the Director, Office of Translational Research; Availability of Report From Global Environmental Health Workshop: Request for Public Comments

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Request for comments.

SUMMARY: The NIEHS vision is to prevent disease and improve human health by using environmental sciences to understand human biology and human disease. NIEHS has prioritized Global Environmental Health (GEH) as a major initiative of its new strategic plan to implement its vision. To obtain advice and guidance on potential research strategies for global environmental health, the NIEHS held the Global Environmental Health Workshop on January 10, 2007, and now invites public comments on the workshop report.

DATES: The deadline for comments is July 1, 2007.

ADDRESSES: Comments should preferably be submitted electronically at *http://www.niehs.nih.gov/external/geh.htm*. Comments can also be submitted by e-mail to *gehcomments@niehs.nih.gov* or by mail to Dr. William J. Martin, NIEHS, P.O. Box 12233, MD B2–07, Research Triangle Park, NC 27709. *Courier address:* NIEHS, 111 TW Alexander Drive, Room B220, Research Triangle Park, NC 27709.

SUPPLEMENTARY INFORMATION:

Background

The NIEHS vision is to prevent disease and improve human health by using environmental sciences to understand human biology and human disease. To achieve that vision and have the greatest impact on preventing disease and improving human health, the NIEHS focuses on basic science, disease-oriented research, global environmental health, and multidisciplinary training for researchers. The NIEHS has prioritized Global Environmental Health (GEH) as a major initiative of its new strategic plan.

The NIEHS convened a distinguished panel of scientists on January 10, 2007, in San Francisco, California to participate in the NIEHS Global Environmental Health Workshop. The overall goal of this workshop was to provide advice and guidance to NIEHS senior staff on potential research strategies as the institute enters into this new arena of environmental health science. The workshop's objectives were to: (1) Inform NIEHS of opportunities in global environmental health (GEH), (2) evaluate the opportunities in GEH within the context of NIEHS's strategic priorities, (3) determine the current barriers for NIEHS/NIH to effectively conduct GEH research, and (4) determine the process for establishing effective strategic partnerships in GEH. The participants prepared a report that summarizes their discussion at the workshop and includes their recommendations on potential research strategies for GEH. The NIEHS invites public comments on the workshop report and will consider this input as senior staff reviews the recommendations in the workshop report and develops research plans for GEH.

Request for Comments

Comments on the report should be submitted preferably via the conference website or by e-mail or mail [see ''**ADDRESSES**'' above]. Persons submitting written comments are asked to include their name and contact information (affiliation, mailing address, telephone, e-mail, and sponsoring organization, if any). Comments should be received by July 1, 2007.

Dated: May 15, 2007.

David A. Schwartz,

Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E7–10479 Filed 5–30–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: This notice publishes the Approval of the Tribal-State Compact for Class III Gaming Amendments between the State of Washington and the Chehalis Confederated Tribes, Confederated Tribes of the Colville Reservation, Hoh Indian Tribe, Jamestown S'Klallam Tribe, Kalispel Tribe of Indians, Lower Elwha Klallam Tribe, Lummi Indian Nation, Makah Nation, Muckleshoot Indian Tribe, Nisqually Indian Tribe, Nooksack Indian Tribe, Port Gamble S'Klallam Tribe, Puyallyup Tribe of Indians, Quileute Indian Tribe, Quinault Indian Nation, Samish Indian Nation, Sauk-Suiattle Indian Tribe, Shoalwater Bay Tribe, Skokomish Indian Tribe, Snoqualmie Tribe, Squaxin Island Tribe, Stillaguamish Tribe, Suquamish Tribe, Swinomish Tribe, Tulalip Tribes, Upper Skagit Tribe, and the Yakama Nation.

DATES: *Effective Date:* May 31, 2007.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of the approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This Amendment, effective today, authorizes changes to the authorized games section of the tribes compact. Those changes include changes to the Tribal Lottery Systems in accordance with state law.

George T. Skibine,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E7–10397 Filed 5–30–07; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

National Park Service

Quarry Visitor Center, Draft Environmental Impact Statement, Dinosaur National Monument, Colorado and Utah

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of the draft environmental impact statement for the quarry visitor center, dinosaur national monument.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(c)(C), the National Park Service announces the availability of a Draft Environmental Impact Statement for the Quarry Visitor Center at Dinosaur National Monument, Colorado and Utah.

The Draft Environmental Impact Statement contains five alternatives.

Alternative A—No Action. The Quarry Visitor Center (QVC) was closed to the staff and public because of serious life safety issues caused by building instability on July 12, 2006. The QVC protected 1,500 dinosaur fossils *in situ* and provided access to the park's primary resource. The building would remain closed to the public; functions would remain displaced; and critical resources would be threatened.

Alternative B—Preferred Alternative—Rehabilitate the Exhibit Hall and Construct a New Facility Off-site. The existing exhibit hall would be rehabilitated to adequately protect fossil resources and provide access to the public. Currently displaced functions would be constructed at a location off-site that has stable soil.

Alternative C—Retain the Exhibit Hall and Construct a New Facility at the Quarry Visitor Center. The exhibit hall would be rehabilitated to protect fossil resources and provide access to the public, and the currently displaced functions would be reconstructed on the unstable soil that has caused building movement for more than 50 years.

Alternative D—Retain the Exhibit Hall and Construct Wings Similar. The exhibit hall would be rehabilitated to protect fossil resources and provide access to the public. The remaining portions of the building would be reconstructed in the original footprint and dysfunctional configuration on the unstable soil that has caused building movement for more than 50 years.

Alternative E—Demolish the Entire Facility and Construct a New Facility at the QVC Site. The entire building would be demolished and rebuilt on the unstable soil that has caused building movement for more than 50 years.

General Assumptions/Conditions that Apply to all Alternatives—Engineers and architects estimate that only 10% of the historic fabric could be used for any of the alternatives. All alternatives would result in reconstruction, which is not an approved treatment under the Secretary's guidelines. Thus, the National Historic Landmark designation cannot be preserved under any alternative.

DATES: The National Park Service will accept comments on the Draft Environmental Impact Statement from the public for 60 days from the date the Environmental Protection Agency publishes the Notice of Availability. No public meetings are scheduled at this time.

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov*, in the office of the Superintendent, Mary Risser, 4545 E. Highway 40, Dinosaur, CO, (970) 374–3001 and the following locations: The Moffatt County Library, 570 Green St., Craig, CO 81625 and the Uintah County Library, 155 East Main, Vernal, UT 84078.

FOR FURTHER INFORMATION CONTACT: Mary Risser, 4545 E. Highway 40, Dinosaur, CO, (970) 374–3001, *Mary_Risser@nps.gov.*

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Dinosaur National Monument Headquarters, 4545 E. Highway 40, Dinosaur, CO. You may also comment via the Internet at *http://parkplanning.nps.gov.* If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at 970.374.3001. Finally, you may hand-deliver comments to the park headquarters at the above address. 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.

Dated: May 17, 2007.

Michael D. Snyder,

Director, Intermountain Region, National Park Service.

[FR Doc. 07–2689 Filed 5–30–07; 8:45 am]

BILLING CODE 4312–CR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Conduct a Special Resource Study, Environmental Impact Statement, for the Delaware Coastal Area in the State of Delaware, and To Hold Public Scoping Meetings

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement for the Special Resource Study for the Delaware Coastal Area in the state of Delaware, and to hold public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service is preparing an Environmental Impact Statement (EIS) for the Special Resource Study (SRS) for the Delaware Coastal Area in the state of Delaware. This SRS was authorized in Public Law 109–338 including its mandate for conformance with section 8(c) of Public Law 91–383. The purpose of an SRS is to determine the degree and kind of Federal actions that may be desirable for the management and protection of an area considered to have potential for addition to the National Park System. This is an SRS of the coastal region of the state of Delaware, and a study of the many themes that relate to how those resources were used throughout history in that region. The study area will include the entire coastal area of the state of Delaware. Additional sites or locations in Delaware may also need to be considered during the study process.

The SRS/EIS will address a range of alternatives including any potential roles for the NPS in preservation and interpretation of the resources of the study area. Alternatives to be considered include: No action, the potential for congressional designation of all or part of the study area as a unit of the National Park system, and any other appropriate alternative that may arise during the study process.

The EIS will assess the impacts of the alternatives presented in the SRS. The public scoping meetings will include a discussion of the SRS and the EIS process including ways that the public can be involved in providing and receiving information, and reviewing and commenting upon the draft study and associated draft EIS. The purpose of the meeting is to solicit public input prior to formally undertaking the study.

DATES: The Park Service will accept comments from the public through 60 days from the date of publication of the Environmental Protection Agency's Notice of Intent in the **Federal Register**. The place and time of public scoping meetings in both the City of Wilmington and in Georgetown (southern Delaware) will be announced by the National Park Service (NPS) and noticed in local newspapers serving the area. Notice of the meetings will also be posted on the project Web site: *www.nps.gov/nero/delasrs*.

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov,* or in the NPS Northeast Regional Office, Division of Park Planning and Special Studies, 200 Chestnut Street, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Peter Samuel: Planner/Project Leader, National Park Service, Northeast Region, 200 Chestnut Street, 3rd Floor, Philadelphia, PA 19106–2878. E-mail address: *peter_samuel@nps.gov*. Telephone: 215–597–1848.

SUPPLEMENTARY INFORMATION: Everyone interested in this study and the future protection and management of this area is encouraged to attend the public scoping meetings or to contact: Peter Samuel, National Park Service Planner/Project Leader, by letter, e-mail or telephone for further information. A summary of the meeting comments will be posted on the project Web site and distributed in hard copy to anyone requesting it. If you wish to comment on the scoping or on any other issues associated with the plan, you may submit your comments by any one of several methods. You may mail comments to Peter Samuel (as listed above). You may also comment via the Internet at *http://parkplanning.nps.gov*. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at Division of Park Planning and Special Studies, 200 Chestnut Street, Philadelphia, PA 19106—215–597–1848. Finally, you may hand-deliver comments to the address above. 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. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: March 2, 2007.

Dennis Reidenbach,

Acting Regional Director, Northeast Region, National Park Service .

[FR Doc. E7–10438 Filed 5–30–07; 8:45 am]

BILLING CODE 4312–J6–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–409 and 731–TA–909 (Review)]

Low Enriched Uranium From France

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping and countervailing duty orders on low enriched uranium from France.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping and countervailing duty orders on low enriched uranium from France would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: April 9, 2007.

FOR FURTHER INFORMATION CONTACT: Nathanael Comly (202–205–3174), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for

these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 9, 2007, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (72 FR 27151, May 14, 2007). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on September 21, 2007, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on October 11, 2007, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 1, 2007. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 4, 2007, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is October 2, 2007. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is October 22, 2007; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before October 22, 2007. On November 16, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 20, 2007, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 25, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–10410 Filed 5–30–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1104 (Final)]

Certain Polyester Staple Fiber From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of certain polyester staple fiber, provided for in subheading 5503.20.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

(LTFV). The Commission finds that critical circumstances do not exist with respect to subject imports from China.

Background

The Commission instituted this investigation effective June 23, 2006, following receipt of a petition filed with the Commission and Commerce by DAK Americas, LLC, Charlotte, NC; Nan Ya Plastics Corporation, America, Lake City, SC; and Wellman, Inc., Shrewsbury, NJ. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain polyester staple fiber from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on January 11, 2007 (72 FR 1341). The hearing was held in Washington, DC, on March 13, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 24, 2007. The views of the Commission are contained in USITC Publication 3922 (June 2007), entitled Certain Polyester Staple Fiber from China: Investigation No. 731–TA–1104 (Final).

By order of the Commission.

Issued: May 24, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–10409 Filed 5–30–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

May 24, 2007.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained at *http://www.reginfo.gov/public/do/PRAMain*, or contact Ira Mills on 202–693–4122 (this is not a toll-free number) or E-mail: *Mills.Ira@dol.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for U.S. Department of Labor/Office of Disability Employment Policy (ODEP), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Office of Disability Employment Policy.

Type of Review: New Collection.

Title: Survey of Employer Perspectives on the Employment of People with Disabilities.

OMB Number: 1230—0NEW.

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; and State, Local, or Tribal Government.

Type of Response: Reporting.

Number of Respondents: 3,600.

Annual Responses: 3,600.

Average Response time: 15 minutes.

Total Annual Burden Hours: 900.

Total Annualized Capital/Startup Costs: $54,270.

Total Annual Costs (operating/maintaining systems or purchasing services): $575,254.

Description: The U.S. Department of Labor, Office of Disability Employment Policy (ODEP), under the Omnibus Appropriations Resolution, 2003, Public Law 1087; Consolidated Appropriations Act, 2001, Public Law 106–554, 29 U.S.C. 557b, proposes to conduct a survey of employers' perceptions on the employment of people with disabilities. The proposed survey of employers will build on the findings of previous employer surveys, with an emphasis on current attitudes and practices of employers in 12 industry sectors, including some high growth industries as projected by the Bureau of Labor Statistics. ODEP is also interested in understanding employers' perspectives about disability employment by company size and individuals at different levels organizationally within a given employer e.g., Executive, Human Resources and Equal Employment Opportunity, front line supervisor or manager). The survey will be conducted by telephone by a survey firm utilizing computer assisted telephone interviewing capability.

Ira L. Mills,

Departmental Clearance Officer/ Team Leader.

[FR Doc. E7–10362 Filed 5–30–07; 8:45 am]

BILLING CODE 4510–CX–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before July 2, 2007.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *E-Mail: Standards-Petitions@dol.gov.*
2. *Telefax:* 1–202–693–9441.
3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209,

Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to sign-in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Edward Sexauer, Chief, Regulatory Development Division at 202–693–9444 (Voice), *sexauer.edward@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2007–018–C.

Petitioner: TJS Mining Company, Inc.

Mine: Darmac #2 Mine, (MSHA I.D. No. 36–08135), located in Armstrong County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to increase the cable length of cables supplying power to two (2) Fletcher Roof Ranger II Roof Bolters. The petitioner states that: (1) The utilization voltage for these machines is 480 volts, three-phase alternating current and the maximum length of the 480-volt trailing cables will be 950 feet; (2) the trailing cables for the 480-volt Fletcher Roof Ranger II Roof Bolters will not be smaller than No. 2 A.W.G. cable; (3) all circuit breakers used to protect the No. 2 A.W.G. trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes and the trip setting of the circuit breakers will be sealed to ensure that the settings cannot be changed; (4) these breakers will have permanent legible labels identifying the circuit breakers as being suitable for protecting the No. 2 A.W.G cables; (5) replacement circuit breakers and/or instantaneous trip units used to protect the No. 2 A.W.G. trailing cables will be calibrated to trip at 500 amperes and the setting will be sealed; and (6) all components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available. The petitioner also asserts that the cables and circuit breakers will be inspected each production day and warning labels will be installed on the load center to identify each short-circuit protective device. The petitioner states that the alternative method will not be implemented until training has been provided to all miners who are designated to operate the Roof Ranger II, and to person(s) designated to examine the trailing cables or trip settings on the circuit breakers. The petitioner further states that the miners will be trained in the terms and conditions of the Proposed Decision and Order, and within 60 days the petitioner will submit revisions of its Part 48 training plan to the District Manager that includes task training to comply with the final order. The petitioner asserts that the proposed alternative method will at times guarantee no less than the same measure of protection afforded the miners by such standard with no diminution of safety to the miners. The petitioner has listed additional procedures in this petition that will be used when the proposed alternative method is implemented. Persons may review a complete description of the procedures and training requirements at the MSHA address listed in this notice.

Docket Number: M–2007–019–C.

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope, (MSHA I.D. No. 36–09491), located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.335 (Construction of seals).

Modification Request: The petitioner proposes to: (1) Construct alternative seals from wooden materials of moderate size and weight; (2) design the seals in the 10 psi range; and (3) install the seals in pairs, which require water traps to be installed in the gangway seal (lowest elevation) and sampling tube in the monkey seal (higher elevation). In addition, petitioner asserts that concrete block and mortar construction for openings parallel to the pitching vein would be almost impossible to construct and would be subject to fail because of its weight and would expose miners to safety hazards during transport. The petitioner cites non-explosibility of anthracite coal dust and minimal potential for either an accumulation of methane in previously mined pitching veins or an ignition source in the gob area, as justification for the proposed 10 psi design. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–020–C.

Petitioner: Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528.

Mine: Deer Creek Mine, (MSHA I.D. No. 42–00212), located in Emery County, Utah.

Regulation Affected: 30 CFR 75.350 (Air courses and belt haulage entries).

Modification Request: The petitioner requests an amendment to the proposed decision and order (PDO) for its previously granted petition for modification, docket number M–2002–012–C to: (1) Remove section IV(c) and section IV(d) regarding heavy duty diesel-powered equipment and replace these sections with language described in this amended petition; (2) to remove language addressing refueling of diesel equipment in a two entry in section IV(e) of the PDO, and replace it with language described in the amended petition. Persons may review the amended petition at the MSHA address listed in this notice.

Docket Number: M–2007–021–C.

Petitioner: Black Beauty Coal Company, P.O. Box 347, Francisco, Indiana 47649.

Mine: Francisco Underground Pit, (MSHA I.D. No. 12–02295), located in Gibson County, Indiana.

Regulation Affected: 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

Modification Request: The petitioner proposes to operate the Getman Road Builder, RDG–1504S, Serial Number 6925, without front brakes as it was originally designed. The petitioner states that: (1) The Road Builder has dual brake systems on the four (4) rear wheels and is designed to prevent a loss of braking due to a single component failure; (2) the operators will be trained

to recognize appropriate speeds for different road conditions and slopes, and to lower the grader blade to provide additional stopping capability; and (3) the safety of the miners will not be compromised. The petitioner asserts that the alternative braking method will provide the necessary safety for the workforce as is required in 30 CFR 75.1909(b)(6).

Docket Number: M–2007–005–M.

Petitioner: Oldcastle Industrial Minerals, 550 S. Biesecker Road, Thomasville, Pennsylvania.

Mine: Thomasville Mine, (MSHA I.D. No. 36–03432), located in York County, Pennsylvania.

Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of compressed air cylinders and bottled water instead of using compressed air and water lines to underground refuge chambers. The petitioner states that: (1) The Thomasville Mine is a high purity, non-gas liberating limestone mine where multiple geologic deformation phases have occurred which has led to the utilization of multiple mining techniques on many different working levels within multiple underground and surface mine operations; (2) the refuge chamber will contain enough compressed air to support four (4) people for up to 2 days, which based on NIOSH figures of oxygen consumption, will require a minimum of 672 cubic feet of oxygen or 3215 cubic feet of breathable air (of which 20.9% is oxygen) supplied in compressed air tanks; and (3) since there is no source of potable water underground it will supply bottled water in the refuge chamber to provide a source of safe, clean water, which would not be the case if water lines from the pumping stations were used.

Dated: May 18, 2007.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7–10442 Filed 5–30–07; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINSTRATION

Nixon Presidential Historical Materials: Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional Nixon presidential historical materials. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (''PRMPA'', 44 U.S.C. 2111 note) and 1275.42 (b) of the PRMPA Regulations implementing act (36 CFR part 1275), the agency has identified, inventoried, and prepared for public access approximately 11 hours of Nixon White House tape recordings among the Nixon presidential historical materials.

DATES: The National Archives and Records Administration (NARA) intends to make the materials described in this notice available to the public no earlier than July 5, 2007. The exact date of the opening has yet to be determined, but public notice will be provided on the National Archives and Records Administration Web site (*http://www.archives.gov*). In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense on or before July 2, 2007.

ADDRESSES: The materials will be made available to the public at the National Archives at College Park research room. The National Archives at College Park research room is located at 8601 Adelphi Road, College Park, Maryland 20740–6001.

FOR FURTHER INFORMATION CONTACT: Tim Naftali, Director, Nixon Presidential Materials Staff, 714–983–9121.

SUPPLEMENTARY INFORMATION: NARA is proposing to open approximately 165 conversations which were recorded at the Nixon White House in November 1972. These conversations total approximately 11 hours and 30 minutes of listening time. NARA is proposing to open three tapes from November 1972. They are: White House Telephone Tape 33, recorded between November 3, 1972 and November 19, 1972; White House Old Executive Office Building tape 388, recorded on November 8, 1972; and White House Oval Office tape 813, recorded on November 8, 1972. This is the eleventh opening of Nixon White House tapes since 1980. There are no transcripts for these tapes. Tape subject logs, prepared by NARA, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each conversation. Each tape log entry includes the names of participants; date and inclusive times of each conversation; location of the conversation; and an outline of the content of the conversation.

The tape recordings will be made available in the research room at 8601 Adelphi Road, College Park, Maryland no earlier than noon on the opening date. Researchers must have a NARA researcher card, which they may obtain when they arrive at the facility. Listening stations will be available for public use on a first come, first served basis. NARA reserves the right to limit listening time in response to heavy demand.

Dated: May 24, 2007.

Allen Weinstein,

Archivist of the United States.

[FR Doc. E7–10411 Filed 5–30–07; 8:45 am]

BILLING CODE 7515–01–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Meeting of the Advisory Commission on Drug Free Communities

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Drug-Free Communities Act, a meeting of the Advisory Commission on Drug Free Communities will be held on June 27 and 28, 2007 at the Office of National Drug Control Policy in the 5th Floor Conference Room, 750 17th Street, NW., Washington, DC. The meeting will commence at 8:30 a.m. on Wednesday, June 27th, 2007 and adjourn for the evening at 5 p.m. The meeting will reconvene at 8:30 a.m. on Thursday, June 28th, 2007 in the same location. The meeting will adjourn at 4 p.m. on Thursday, June 28th, 2007. The agenda is slated to include: Remarks by ONDCP Director John P. Walters, remarks by the DFC Program's Administrator, Jack Claypoole, and remarks by Policy Analyst Ken Shapiro. There will also be a discussion of the program's evaluation, a discussion about the reauthorization of the Drug Free Communities Program, a review of the new grant process, and an update from the Substance Abuse and Mental Health Services Administration. There will be an opportunity for public comment from 9–9:30 on Thursday, June 28th, 2007. Members of the public who wish to attend the meeting and/or make public comment should contact ShaNice Stokes, at (202) 395–6699 to arrange building access.

FOR FURTHER INFORMATION CONTACT: Linda V. Priebe, (202) 395–6622.

Dated: May 4, 2007.

Linda V. Priebe,

Assistant General Counsel.

[FR Doc. E7–10390 Filed 5–30–07; 8:45 am]

BILLING CODE 3180–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–26]

Notice of Availability of Supplement to the Environmental Assessment and Draft Finding of No Significant Impact for the Diablo Canyon Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of opportunity to provide comments.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing a supplement to the Environmental Assessment (EA) for the Diablo Canyon Independent Spent Fuel Storage Installation (ISFSI) and publishing, for public comment, a draft Finding of No Significant Impact (FONSI). NRC issued the EA and initial FONSI for this action on October 24, 2003, and subsequently issued a license for the Diablo Canyon ISFSI to the Pacific Gas and Electric Company (PG&E), on March 22, 2004. The license authorizes PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Diablo Canyon Power Plant in an ISFSI at the site for a term of 20 years. NRC is issuing this supplement to the EA and draft FONSI in response to the June 2, 2006, decision by the United States Court of Appeals for the Ninth Circuit, *San Luis Obispo Mothers for Peace* v. *NRC*, 449 F.3d 1016 (9th Cir. 2006). This supplement to the EA addresses the environmental impacts from potential terrorist acts against the Diablo Canyon ISFSI.

DATES: The public comment period on the draft FONSI closes July 2, 2007. Written comments should be submitted as described in the **ADDRESSES** section of this notice. Comments submitted by mail should be postmarked by that date, to ensure consideration. Comments received or postmarked after that date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the Chief, Rulemaking, Directives, and Editing Branch, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Please note Docket No. 72–26 when submitting comments. Comments will also be accepted by e-mail, at *NRCREP@nrc.gov* or by facsimile to (301) 492–3342, Attention: James R. Hall.

FOR FURTHER INFORMATION, CONTACT: James R. Hall, Senior Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Mail Stop 6003–3D–02M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 492–3319; e-mail: *jrh@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 21, 2001, PG&E submitted an application to NRC, requesting a site-specific license to build and operate an ISFSI, to be located on the site of the Diablo Canyon Power Plant, in San Luis Obispo County, California. In accordance with the National Environmental Policy Act (NEPA), the NRC staff issued an EA for this action on October 24, 2003, in conformance with NRC requirements specified in 10 CFR 51.21 and 51.30, and the associated guidance in NRC report NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.'' Based on the EA, NRC also issued a FONSI for this action on October 24, 2003, in accordance with 10 CFR 51.31 and 51.32.

On March 22, 2004, the NRC staff issued Materials License No. SNM–2511 to PG&E, pursuant to 10 CFR Part 72, authorizing PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Diablo Canyon Power Plant in an ISFSI at the site for a term of 20 years. PG&E has begun construction of the Diablo Canyon ISFSI and currently plans to start transferring spent fuel to the ISFSI in mid-2008.

After NRC's issuance of the license for the Diablo Canyon ISFSI, the San Luis Obispo Mothers for Peace and other parties filed suit in the United States Court of Appeals for the Ninth Circuit, asking that NRC be required to consider terrorist acts in its environmental review associated with this licensing action. In its decision of June 2, 2006, *San Luis Obispo Mothers for Peace* v. *NRC*, 449 F.3d 1016 (9th Cir. 2006), the Ninth Circuit held that NRC could not categorically refuse to consider the consequences of a terrorist attack under NEPA and remanded the case to NRC.

In response to the Ninth Circuit decision, the Commission issued a Memorandum and Order on February 26, 2007, directing the NRC staff to prepare a revised EA, addressing the likelihood of a terrorist attack at the Diablo Canyon ISFSI site and the potential consequences of such an attack.

The October 24, 2003, EA and FONSI, and the license and supporting documents, are available on NRC's Web site at: *http://www.nrc.gov/waste.html*, by selecting ''Diablo Canyon ISFSI,'' in the Quick Links box. Copies are also available by contacting James R. Hall, as noted above.

II. Summary of Supplement to the EA for the Diablo Canyon ISFSI

In the supplement to the EA, the NRC staff has considered the potential radiological impacts of terrorist acts on the Diablo Canyon ISFSI. NRC has established requirements and has initiated several actions designed to provide high assurance that a terrorist attack would not lead to a significant radiological event at an ISFSI. These include: (1) NRC's continual evaluation of the threat environment, in coordination with the intelligence and law enforcement communities, which provides, in part, the basis for the protective measures currently required; (2) the protective measures that are in place to reduce the chance of an attack that leads to a significant release of radiation; (3) the robust design of dry cask storage systems, which provide substantial resistance to penetration; and (4) NRC security assessments of the potential consequences of terrorist attacks against ISFSIs.

The supplement to the EA describes the security measures for ISFSIs and discusses the security assessments performed by NRC, which confirmed that the existing security requirements, imposed by regulations and orders, are adequate to provide high assurance that a terrorist attack on an ISFSI will not lead to significant radiological consequences. Threat scenarios considered in the generic security assessments for ISFSIs included a large aircraft impact similar in magnitude to the attacks of September 11, 2001, and ground assaults using expanded adversary characteristics consistent with the design basis threat for radiological sabotage for nuclear power plants.

The NRC staff compared the assumptions used in the generic ISFSI security assessments to the relevant features of the Diablo Canyon ISFSI. Based on this comparison, the staff determined that the assumptions used in these generic security assessments,

regarding the storage cask design, the amount of radioactive material that could be released, and the atmospheric dispersion, were representative, and in some cases, conservative, relative to the actual characteristics for the Diablo Canyon ISFSI. The staff determined that any dose to affected residents nearest to the Diablo Canyon site will tend to be much lower than the doses calculated for the generic assessments. Based on these considerations, the dose to the nearest affected resident, from even the most severe plausible threat scenarios—the ground assault and aircraft impact scenarios discussed above, would likely be below 5 rem. In many scenarios, the hypothetical dose to an individual in the affected population could be substantially less than 5 rem, or none at all.

In the supplement, the NRC staff concludes that the construction, operation, and decommissioning of the Diablo Canyon ISFSI, even when potential terrorist attacks on the facility are considered, will not result in a significant effect on the human environment. NRC security requirements, imposed through regulations and orders, and implemented through the licensee's security plans, in combination with the design requirements for dry cask storage systems, provide adequate protection against successful terrorist attacks on ISFSIs. Therefore, a terrorist attack that would result in a significant release of radiation affecting the public is not reasonably expected to occur.

The supplement to the EA and draft FONSI are available on NRC's Web site at: *http://www.nrc.gov/waste.html*, by selecting ''Diablo Canyon ISFSI'' in the Quick Links box. Copies are also available by contacting James R. Hall, as noted previously.

III. Draft Finding of No Significant Impact

The NRC staff has prepared a supplement to the EA related to the construction and operation of the Diablo Canyon ISFSI, in accordance with the requirements of 10 CFR Part 51. As set forth in the supplement to the EA, NRC has considered the potential for terrorist attacks on the facility, and has determined that the storage of spent nuclear fuel at the Diablo Canyon ISFSI will not have a significant effect on the quality of the human environment, based on the facility design features and the mitigative security measures incorporated as part of the NRC licensing action and in response to NRC security orders. These design features and mitigative security measures will provide high assurance that substantial environmental impacts will be avoided and thereby reduced to a non-significant risk level. Therefore, in accordance with 10 CFR 51.33, NRC has determined that issuance of a draft FONSI is appropriate.

Pursuant to 10 CFR 51.33(e), a final determination to prepare an environmental impact statement or a final FONSI for the proposed action shall not be made until the last day of the public comment period has expired.

IV. Further Information

Documents related to this action, including the supplement to the EA and draft FONSI, the October 24, 2003, EA, and the Diablo Canyon ISFSI license and supporting documentation, re available electronically, at NRC's Electronic Reading Room, at: *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the supplement to the EA and draft FONSI is ML071280256. The ADAMS accession number for the October 24, 2003, EA is ML032970337, and for the ISFSI license and related documents, the accession number is ML040780107. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.

Dated at Rockville, Maryland this 24th day of May, 2007.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E7–10471 Filed 5–30–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[HLWRS–ISG–03]

Preclosure Safety Analysis—Dose Performance Objectives and Radiation Protection Program; Availability of Final Interim Staff Guidance Document

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability of the final interim staff guidance (ISG) document, ''HLWRS–ISG–03 Preclosure Safety Analysis—Dose Performance Objectives and Radiation Protection Program,'' and NRC responses to the public comments received on this document. The ISG clarifies or refines guidance provided in the Yucca Mountain Review Plan (YMRP) (NUREG–1804, Revision 2, July 2003). The YMRP provides guidance to NRC staff for evaluating a potential license application for a high-level radioactive waste geologic repository constructed or operated at Yucca Mountain, Nevada.

ADDRESSES: HLWRS–ISG–03 is available electronically at NRC's Electronic Reading Room, at *http://www.nrc.gov/reading-rm.html*. From this site, a member of the public can access NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for ISG–03 is ML071240112. If an individual does not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or (301) 415–4737, or (by e-mail), at *pdr@nrc.gov*.

This document may also be viewed electronically on the public computers located at NRC's PDR, Mail Stop: O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.

NRC Responses to Public Comments on Hlwrs–ISG–03: In preparing final ''HLWRS–ISG–03 Preclosure Safety Analysis—Dose Performance Objectives and Radiation Protection Program,'' ADAMS ML071240112, the NRC staff reviewed and considered 18 comments, including one editorial comment, received from two organizations during the public comment period. Three comments were related to the ISG process; and the remaining comments included recommendations on specific clarifying changes to the ISG. The three comments on the ISG process were consistent with the comments made earlier on HLWRS–ISG–01, and were addressed in responses to public comments on HLWRS–ISG–01 [see 71 FR 57582, Comments 13 (a) and (b)].

The following discussion indicates how the comments were addressed, and the changes, if any, made to ISG–03 as a result of the comments. Line numbers in the following comments refer to draft

HLWRS–ISG–03, ADAMS ML070230090, which was made available for public comment on February 20, 2007 (72 FR 7778).

Comment 1. One commenter recommended that the reference to 10 CFR 63.111 on line 14 be revised to 10 CFR 63.111(a), so that the reference was explicit to Category 1 event sequences. The commenter stated that the entire 10 CFR 63.111 does not apply to preclosure.

Response. NRC disagrees that the entire 10 CFR 63.111 does not apply to preclosure. This section of 10 CFR Part 63 provides the regulatory requirements for performance objectives for the geologic repository operations area (GROA) through permanent closure, which is the preclosure period. However, NRC agrees that, in the context of the sentence (ISG lines 12–14), the reference is to 10 CFR 63.111(a). Therefore, the reference needs to be revised.

ISG line 14 has been revised to change ''10 CFR 63.111'' to ''10 CFR 63.111(a).''

Comment 2. The commenter recommended specific revisions to footnote 1 (below line 38), to define an off-normal condition. The proposed revision could be interpreted to mean that certain deviations from procedures or equipment failures, that involve important to safety (ITS) structure, system, and component (SSC) failures during the preclosure period, may be classified as off-normal, not Category 1 events.

Response. NRC disagrees with the commenter that footnote 1 should be revised. As defined in 10 CFR 63.2, SSCs are designated as ITS, if they are relied on to satisfy the preclosure performance objectives for Category 1 or Category 2 event sequences. In contrast, the SSCs that are relied on for normal operations are not designated as ITS SSCs. Therefore, as stated in footnote 1, equipment failures that do not involve ITS SSCs and do not lead to significantly elevated exposures are considered as off-normal, and not Category 1 event sequences.

No changes to the ISG were made as a result of this comment.

Comment 3. The commenter recommended deleting the last part of footnote 2 (below line 74), which reads ''if the GROA is licensed,'' because, if the GROA is not licensed, then there would be no radiation protection program implementation to inspect.

Response. NRC agrees with the commenter that the last part of the footnote is not needed because implementation of the radiation protection program can only be inspected if NRC has already licensed the geologic repository at Yucca Mountain.

The ISG has been revised to delete ''if the GROA is licensed,'' in footnote 2.

Comment 4. The commenter recommended specific revisions to ISG lines 67–70, which state that NRC should focus on those event sequences that lead to the most significant exposure fields and locations of representative persons who may receive the greatest exposure. The commenter stated that ISG lines 67–70 are inconsistent with the discussion of ''representative exposure locations,'' in ISG line 114, and ''potential high-exposure locations may be eliminated from consideration,'' in ISG lines 118–119.

Response. NRC disagrees that ISG lines 67–70 are inconsistent with ISG lines 114, 118, and 119. ISG lines 67–70 refer to the Radiation Protection Program; whereas ISG lines 114 and 118–119 refer to the Estimation of Doses. It is appropriate to focus on those persons who may receive the greatest exposure, when NRC reviews the adequacy of a Radiation Protection Program, and establishment of restricted areas and access controls; whereas for dose estimates, potential high-exposure locations may be eliminated from consideration because of access controls and personnel monitoring.

No changes to the ISG were made as a result of this comment.

Comment 5. The commenter recommended revising lines 85 through 87, and lines 92 through 94, by deleting the word ''back,'' since this implies that recovery actions are needed to achieve compliance with Part 63.

Response. NRC agrees with the suggested change.

ISG lines 85–87, and 92–94, have been revised to delete the word ''back.''

Comment 6. The commenter stated that the method for aggregating annual doses in the ISG cannot, in all cases, be used to demonstrate compliance with the requirements of 10 CFR 63.111, and that it is not consistent with the performance objectives of Part 63. The commenter stated that the approach in the ISG does not allow consideration of the frequency of a Category 1 event sequence in aggregating the dose. The commenter recommended a specific definition of aggregate annual dose that is based on a statistical approach, where all doses from all Category 1 event sequences are frequency-weighted.

Response. NRC disagrees that the method in the ISG for aggregating annual doses cannot, in all cases, be used to demonstrate compliance with the requirements of 10 CFR 63.111, and that it is not consistent with the performance objectives of Part 63. The method proposed in the ISG consists of summing the doses from normal operational doses, all occurrences of Category 1 event sequences occurring one or more times per year, and the maximum Category 1 event sequence expected to occur less than once per year. This is consistent with Part 63's approach of using the frequency of event sequences to categorize them in broad frequency bins of Category 1 and Category 2 event sequences. This approach is a reasonable way to estimate annual doses during the design review, because it does not require exactly determining frequencies for each and every event sequence, which would be necessary if all Category 1 event sequences were frequency-weighted to determine the aggregate annual dose.

There are many ways to aggregate doses and this method is one simple and direct approach to determine whether the applicant has demonstrated compliance with the performance objectives of Part 63. The applicant may propose another method in a license application, which NRC will review. According to the ''Statement of Considerations'' for Part 63, November 2, 2001 (66 **Federal Register** Notice 55742), the approach in the rule is to provide the U.S. Department of Energy (DOE) with the flexibility to select the type of analysis it believes most appropriate for the license application.

Regardless of the approach used to demonstrate compliance, NRC will inspect for, and enforce compliance with, the preclosure dose limits during operations. If during actual operations, operational releases or events (*e.g.*, multiple Category 1 event sequences in a single year) call into question the basis of NRC's safety decision, NRC would reevaluate the licensing basis, to determine the safety significance and take appropriate regulatory action.

Comment 7. The commenter stated that Table 1, ''Part 63 Performance Objectives,'' could be interpreted to mean that there are separate performance objectives for normal operations and Category 1 Event Sequences because the Total Effective Dose Equivalent values for these are in separate columns.

Response. NRC agrees that, in Table 1, lines 150–163, there should only be one column for the aggregated annual dose from normal operations and Category 1 Event Sequences.

ISG lines 150 through 163 have been revised to combine the columns for normal operations and Category 1 Event Sequences.

Comment 8. The commenter suggested deleting the word ''expected''

before ''Category 1 event sequences,'' in ISG lines 309 and 333, and adding the word ''types of'' before ''Category 1 event sequences,'' in ISG line 333, to provide consistency in wording between the new Review Method 4 and Acceptance Criterion 4.

Response. NRC agrees with the commenter. ISG lines 309 and 333 have been revised to delete ''expected,'' and ISG line 333 has been revised to add ''types of,'' before ''Category 1 event sequences.''

Comment 9. The commenter suggests revising ISG lines 319–321 because the commenter interpreted the word ''confirm'' in the ISG text as implying ''* * * an inspection activity to determine if a facility has been built as required.''

Response. NRC disagrees with the revision suggested by the commenter. The intent of the ISG is clearly stated in ISG lines 1–9; namely, the review of a license application. The word ''confirm,'' as used in the ISG, refers to the review of the ''descriptions'' of the Radiation Protection Program, and not to an inspection activity to determine if a facility has been built as required.

No changes were made to the ISG as a result of this comment.

Comment 10. The commenter stated that the definition of Occupational Dose in ISG line 390 is incomplete, and should be revised to be the same as in 10 CFR 20.1003.

Response. NRC agrees with the commenter.

The ISG has been revised to add the following at the end of the sentence on ISG line 390: ''Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released under 10 CFR 35.75, from voluntary participation in medical research programs, or as a member of the public.''

Comment 11. The commenter suggested the following editorial changes:

Line 178: Replace the word ''does'' with ''do.''

Line 269: Add ''The analysis required in the paragraph must include, but not necessarily be limited to, consideration of,'' at the beginning of the sentence.

Line 330: Revise ''Page 2.1–80'' to ''Page 2.1–81.''

Response. NRC agrees with the commenter. The ISG has been revised to reflect these suggested changes.

Comment 12. The commenter stated that ''NRC appears to be communicating an expectation for a greater level of detail in the Yucca Mountain license application recovery action plan than is appropriate.'' The commenter stated that ''* * * the planning and monitoring of recovery actions should be done within the radiation protection program framework of the draft ISG, and that there is no need for more detail until a time nearer to planned operations.'' The commenter added that ''* * * the ISG should delineate expectations before construction authorization is granted, and additional expectations before a license to receive and possess radiological material is granted.''

Response. NRC disagrees with the commenter because the license application must identify those Category 1 event sequences that are expected to occur during the lifetime of the facility. As a part of the license application review, NRC will verify that the applicant has planned for recovery from these events, and that they will be monitored under the Radiation Protection Program.

The ISG recommends that the reviewer determine that the applicant has described key elements of the recovery action plans. A plan should provide enough detail to determine that the corrective actions taken will assure adequate access to vital areas, and protection of safety equipment. It should describe the basic steps taken to recover from an event and the radiation exposure levels that may be present.

No changes to the ISG were made as a result of this comment.

Comment 13. The commenter commended NRC on ''applying the risk-informed principles in an exemplary manner,'' in ISG lines 59–66, and 143–147. However, the commenter added that the section on ''Estimation of Doses in the PCSA'' (ISG lines 102–147) was ''* * * not consistent with the risk-informed principles,'' and the draft ISG ''* * * removes the flexibility intended by the regulation,'' in the area of the aggregate annual dose for normal operations and Category 1 event sequences.

Response. NRC disagrees with the commenter. The ISG provides DOE with sufficient flexibility to estimate dose for selected representative radiation workers or classes, on-site persons, and off-site members of the public, with no summation of doses from different classes or to perform single-bounding dose estimations for radiation workers or classes, on-site persons, and off-site members of the public.

No changes to the ISG were made as a result of this comment.

Comment 14. The commenter stated that the method in the ISG, to calculate an aggregate annual dose, does not allow the applicant to sum only those doses for an individual or class of workers, but instead requires the aggregate dose to include doses to all workers. Also the commenter stated that the summation of doses should not be interpreted to remove the licensee's flexibility to apply the planned special exposure provisions of 10 CFR 20.1206 in the mitigation of Category 1 event sequences.

Response. NRC disagrees with the commenter. There are many ways to aggregate doses and the method in the ISG is one acceptable way to demonstrate whether the applicant has demonstrated compliance with the performance objectives of Part 63. The applicant has the flexibility to propose another method in a license application, which NRC will review as long as it is supported by technical bases.

Planned special exposures (PSEs), defined in 10 CFR Part 20, are infrequent exposures to radiation, separate from, and in addition to, annual dose limits. PSEs are for exceptional situations, whereas the estimation of annual dose in the ISG includes only those doses from normal operations and Category 1 event sequences. Since Category 1 event sequences are those that are expected to occur one or more times during the life of the facility, these events are not an exceptional situation and are not precluded when determining the annual dose.

No changes to the ISG were made as a result of this comment.

Comment 15. The commenter suggested that the ISG clarify terminology used in two different instances. The commenter stated that the first term requiring clarification is ''controlled area site boundary,'' introduced in ISG line 21. ISG lines 36 and 37 define the ''site boundary'' as analogous to the ''controlled area site boundary'' defined in Part 20. The commenter stated that NRC should not assume that the ''Yucca Mountain Repository site boundary'' and the ''controlled area for preclosure purposes,'' are necessarily the same. DOE should be able to define the controlled area so long as it is outside the restricted area, but inside the site boundary, as long as the requisite safety and radiation protection requirements are met. The commenter also suggests the use of a different term, such as ''preclosure controlled area,'' so that limitations are not placed on the applicant. The second term for which the commenter suggested clarification is in ISG line 102, ''* * * doses from those Category 1 event sequences that are expected to occur one or more times

per year.'' The commenter states that, ''it is not clear why an acceptable design and operational concept would include planning for SSC failures, more often than once per year, that resulted in a radiation dose,'' and these should be considered ''as part of normal operations as opposed to as a Category 1 event sequence.''

Response. The Part 63 definition of ''controlled area'' is found in Subpart L—''Postclosure Public Health and Environmental Standards,'' in section 63.302, and not in Subpart K—''Preclosure Public Health and Environmental Standards.'' Since 10 CFR 63.111(a) requires the GROA to meet the requirements of Part 20, the Part 20 definitions are to be applied within the context of Part 63. The site boundary is analogous to the controlled area, defined in Part 20, because the preclosure limits are based on the boundary of the site, defined for preclosure, as that area, surrounding the GROA, for which DOE exercises authority over its use, in accordance with the provisions of Part 63. DOE should clearly identify the controlled site boundary in its demonstration of compliance with Part 20 requirements. However, NRC agrees that the use of the term ''controlled area site boundary'' may be confusing, and thus is deleting that term from the ISG.

The second term, ''doses from those Category 1 event sequences that are expected to occur one or more times per year'' is used in the ISG method to aggregate doses. Although NRC agrees with the commenter that ITS SSCs should be designed and maintained in such a manner to prevent or avoid frequent failure, this term does not imply that a design that plans for frequent occurrences of ITS SSCs will be acceptable to NRC. Rather, this term is used to ensure that if the applicant submits an application with a Category 1 event sequence that occurs more than once per year, then the reviewer will include all occurrences of that event, when determining if the estimated annual dose meets the performance objectives of Part 63.

ISG line 21 has been revised by changing ''controlled site boundary'' to ''controlled area.''

ISG lines 36 and 37 have been revised by deleting the sentence, ''The site boundary * * * Part 20.''

ISG lines 55 and 56 have been revised by changing ''controlled area site boundaries'' to ''the boundaries of the controlled area.''

ISG line 136 has been revised by changing ''controlled area site boundary'' to ''boundary of the site.''

ISG line 144 has been revised by changing ''controlled area site boundary'' to ''boundary of the site.''

ISG lines 169 and 177 have been revised by changing ''controlled-area boundary'' to ''controlled area.''

FOR FURTHER INFORMATION, CONTACT:

Jon Chen, Project Manager, Division of High-Level Waste Repository Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 [Telephone: (301) 415–5526; fax number: (301) 415–5399; e-mail: *jcc2@nrc.gov*];

Robert K. Johnson, Senior Project Manager, Division of High-Level Waste Repository Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 [Telephone: (301) 415–6900; fax number: (301) 415–5399; e-mail: *rkj@nrc.gov*].

Dated at Rockville, Maryland this 22nd day of May, 2007.

For the Nuclear Regulatory Commission.

Sheena Whaley,

Chief, Engineering Branch, Division of High-Level Waste Repository Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E7–10470 Filed 5–30–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15Bc3–1 and Form MSDW SEC File No. 270–93; OMB Control No. 3235–0087

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this collection of information to the Office of Management and Budget for extension and approval.

Rule 15Bc3–1 (17 CFR 240.15Bc3–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW.

The Commission uses the information submitted on Form MSDW in determining whether it is in the public interest to permit a bank municipal securities dealer to withdraw its registration. This information is also important to the municipal securities dealer's customers and to the public, because it provides, among other things, the name and address of a person to contact regarding any of the municipal securities dealer's unfinished business.

Based upon past submissions, the staff estimates that approximately 20 respondents in total will utilize this notice procedure annually, with a total burden of 10 hours for all respondents. The staff estimates that the average number of hours necessary for each respondent to comply with the requirements of Rule 15Bc3–1 is 0.5 hours. The average cost per hour is approximately $101. Therefore, the total cost of compliance for all respondents is $1010 ($101 × 0.5 × 20 = $1010).

Written 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 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 60 days of this notice.

Dated: May 16, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10374 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange

Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15Ba2–1 and Form MSD; SEC File No. 270–88; OMB Control No. 3235–0083

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15Ba2–1 (17 CFR 240.15Ba2–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information contained in Form MSD to determine whether bank municipal securities dealers meet the standards for registration set forth in the Exchange Act, to develop a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop statistical information about bank municipal securities dealers.

Based upon past submissions, the staff estimates that approximately 32 respondents will utilize this application procedure annually, with a total burden of 48 hours. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Ba2–1 is 1.5 hours. The average cost per hour is approximately $67. Therefore, the total cost of compliance for the respondents is approximately $3,216.

Written 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 60 days of this notice.

May 16, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10378 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27826; 812–13350]

First Investors Equity Funds, et al.; Notice of Application

May 23, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

Summary of Application: The requested order would permit certain registered open-end management investment companies to enter into and materially amend subadvisory agreements with subadvisers (''Subadvisors'') without shareholder approval.

Applicants: First Investors Equity Funds, First Investors Income Funds, First Investors Tax Exempt Funds, and First Investors Life Series Fund (the ''Trusts'') and First Investors Management Company, Inc. (the ''Advisor'').

DATES: *Filing Dates:* The application was filed on December 4, 2006, and amended on May 17, 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 June 19, 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 reasons 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 20549–1090. Applicants, First Investors Equity Funds et al, Kirkpatrick & Lockhart Preston Gates, LLP, 1601 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel at (202) 551–6876, or Nadya Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations:

1. The Trusts, each a Delaware statutory trust, are registered under the Act as open-end management investment companies. Each Trust currently offers one or more series (''Funds''), each of which has its own investment objectives, policies and restrictions.[1]

2. The Advisor is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as investment adviser to each Fund pursuant to an investment advisory agreement with the respective Trust (''Advisory Agreement'') that was approved by the board of trustees of the Trust (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), and the shareholders of each Fund. Under the Advisory Agreement, the Advisor receives a fee from each Fund based on the average daily net assets of the Fund. Under the Advisory Agreement, the Advisor may delegate investment advisory responsibilities to one or more Subadvisors who have discretionary authority to invest all or a portion of the Fund's assets pursuant to a separate subadvisory agreement (''Subadvisory

[1] Applicants also request exemptive relief with respect to any other existing and future registered open-end management investment company or series thereof that (a) is advised by the Advisor or any entity controlling, controlled by or under common control with the Advisor; (b) uses the advisor/subadvisor structure that is described in the application; and (c) complies with the terms and conditions of the requested order (included in the term ''Funds''). The requested relief will not extend to any subadvisor that is an affiliated person as defined in Section 2(a)(3) of the 1940 Act, of the Fund or the Advisor, other than by reason of serving as a Subadvisor to one or more of the Funds (an ''Affiliated Subadvisor''). If the name of any Fund contains the name of a Subadvisor, the name of the Advisor will precede the name of the Subadvisor.

Agreement''). The Advisor selects Subadvisors based on the Advisor's continuing evaluation of their skills in managing assets pursuant to particular investment styles. Each Subadvisor is and will be an investment adviser registered under the Advisers Act. For its services to a Fund, the Advisor pays each Subadvisor out of the investment advisory fee the Advisor receives from the Fund. Applicants request relief to permit the Advisor, subject to Board approval, to enter into and materially amend Subadvisory Agreements without shareholder approval.

Applicants' Legal Analysis:

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that their requested relief meets this standard.

3. Applicants state that the Funds' shareholders rely on the Advisor, subject to oversight by the Board, to select the Subadvisors best suited to achieve a Fund's investment objectives. Applicants assert that from the perspective of the investor, the role of the Subadvisors is comparable to that of individual portfolio managers employed by traditional investment advisory firms. Applicants contend that requiring shareholder approval of Subadvisory Agreements would impose costs and unnecessary delays on the Funds and may preclude the Advisor from acting promptly in a manner considered advisable by the Board. Applicants also note that the Advisory Agreement will remain subject to the shareholder approval requirements in section 15(a) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering the Fund's shares to the public.

2. Each Fund relying on the requested order will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to this application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Advisor has ultimate responsibility, subject to oversight by the Board, to oversee the Subadvisors and recommend their hiring, termination and replacement.

3. Within 90 days of the hiring of any new Subadvisor, the Advisor will furnish shareholders of the affected Fund all information about the new Subadvisor that would be included in a proxy statement. To meet this obligation, the Advisor will provide shareholders of the applicable Fund with an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

4. The Advisor will not enter into a Subadvisory Agreement with any Affiliated Subadvisor without that Subadvisory Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of each Fund's Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

6. When a Subadvisor change is proposed for a Fund with an Affiliated Subadvisor, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Advisor or the Affiliated Subadvisor derives an inappropriate advantage.

7. The Advisor will have overall supervisory responsibility for the general management and investment of the Fund's assets, and, subject to review and approval by the Board, will (i) set each Fund's overall investment strategies, (ii) evaluate, select and recommend Subadvisors to manage all or a part of a Fund's assets, (iii) when appropriate, allocate and reallocate a Fund's assets among multiple Subadvisors, (iv) monitor and evaluate the performance of the Subadvisors, and (v) implement procedures reasonably designed to ensure that the Subadvisors comply with each Fund's investment objective, policies and restrictions.

8. No trustee or officer of a Trust, or director or officer of the Advisor will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadvisor, except for (a) ownership of interests in the Advisor or any entity that controls, is controlled by, or is under common control with the Advisor, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadvisor or an entity that controls, is controlled by or is under common control with a Subadvisor.

9. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10364 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55810; File No. SR–NASD–2007–034]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Creating NASD Rule 1160 (Firm Contact Information) Regarding the Reporting and Annual Review of Designated Contact Information to NASD

May 24, 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 11, 2007, the National Association of Securities Dealers, Inc. (''NASD'') filed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend adopt new NASD Rule 1160 (Firm Contact Information) regarding the reporting of designated contact information to NASD and the annual review of such information. The proposed rule change also would amend Rule 1120 (Continuing Education Requirements), Rule 1150 (Executive Representative), Interpretive Material (IM)–3011–2 (Review of Anti-Money Laundering Compliance Person Information), and Rule 3520 (Emergency Contact Information) to eliminate the requirement that members review and update, at the end of each calendar quarter, the contact information required by these rules. The text of the proposed rule change is available at www.nasd.com, at the NASD, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, there are several rules requiring firms to identify and report to NASD certain designated contact persons: Rule 1120 (Continuing Education Requirements); Rule 1150 (Executive Representative); IM–3011–2 (Review of Anti-Money Laundering Compliance Person Information); and Rule 3520 (Emergency Contact Information). These rules further require firms to review the contact information at the end of each calendar quarter, and if necessary, update such information within 17 business days after the end of each quarter. Members review this information and provide any updates online via the NASD Contact System (''NCS'').[3]

Based on recommendations made by its Small Firm Rules Impact Task Force,[4] NASD is proposing to eliminate these quarterly review requirements in favor of a more comprehensive approach for verifying and updating all contact information required to be reported. Specifically, proposed new Rule 1160 would require members to provide the required contact information via NCS or such other means as NASD may specify. New Rule 1160 also would require members to update the contact information promptly, but in any event not later than 30 days following any change in such information, as well as to review and, if necessary, update the information within 17 business days after the end of each calendar year. In addition, the rule would require members to comply with any NASD request for such information promptly, but in any event not later than 15 days following the request, or such longer period that may be agreed to by NASD staff. The proposed rule change would not relieve members from any separate requirements to update such information.[5]

The proposed rule change also would amend Rule 3520 to eliminate the requirement that only a firm's Executive Representative, or his or her written designee, be permitted to review and update the firm's emergency contact information. NASD believes that eliminating this restriction will assist members in complying with their obligation to keep current their emergency contact information by giving members the flexibility to have others perform this duty as necessary or appropriate.

The proposed rule change has several advantages over current NASD requirements applicable to firm contact information. NASD understands that for many firms, the persons who occupy the designated positions seldom change, and thus the proposed rule change would eliminate any unnecessary burden that firms may incur in conducting quarterly reviews of the contact information. At the same time, the proposed rule change would help to ensure that the contact information required by NASD is kept current and provided to NASD promptly upon request. This would assure NASD's ability to contact its members in the event of an emergency, as well as support members' compliance with certain NASD rules, such as continuing education requirements and anti-money laundering obligations, and facilitate member voting through the Executive Representatives.

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change sets forth a comprehensive approach for member firms to provide and keep current required contact information, while also reducing unnecessary burdens on firms by eliminating the requirement that firms review and update the contact information on a quarterly basis; instead, firms would be required to conduct such reviews on an annual basis as well as to promptly update the information following any change.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] NASD also currently requires each firm to report, via NCS, contact information for its Executive Officer and the Head of Compliance. NCS also includes several optional fields for other contact persons.

[4] NASD established the Small Firm Rules Impact Task Force in September 2006 to examine how existing NASD rules impact smaller firms. In particular, the Task Force focuses on possible opportunities to amend or modernize certain conduct rules that may be particularly burdensome for small firms, where such changes are consistent with investor protection and market integrity.

[5] For example, a firm must identify, among others, its Chief Executive Officer and Chief Compliance Officer on Form BD, and promptly update such information by submitting an amendment whenever the information becomes inaccurate or incomplete for any reason. *See also* Article IV, Section 1(c) of the NASD By-Laws, requiring each member to ensure that its membership application is kept current at all times by supplementary amendments, and to file any such amendment no later than 30 days after learning of the facts or circumstances giving rise to the amendment.

[6] 15 U.S.C. 78o–3(b)(6).

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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–NASD–2007–034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2007–034. 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 NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2007–034 and should be submitted on or before June 21, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10403 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55806; File No. SR–NASD–2007–028]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Order Audit Trail System

May 23, 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 April 17, 2007, the National Association of Securities Dealers, Inc. (''NASD''), 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 NASD. On May 18, 2007, NASD filed Amendment No. 1 to the proposed rule change. 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

NASD is proposing to amend Rules 6951 and 6954 to require members that transmit an intermarket sweep order (''ISO'') to another member, electronic communications network, nonmember, or exchange to record and report the fact that the order was an ISO. The text of the proposed rule change is available on NASD's Web site at *http://www.nasd.com*, at NASD's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Rules 6950 through 6958 (''OATS Rules'') impose obligations on member firms to record in electronic form and report to NASD on a daily basis certain information regarding orders in Nasdaq-listed securities originated, received, transmitted, modified, canceled, or executed by NASD members.[3] NASD integrates this Order Audit Trail System (''OATS'') information with quote and transaction information to create a time-sequenced record of orders, quotes, and transactions. This information is critical to NASD in conducting surveillance and investigations of members for violations of NASD rules and the federal securities laws.

On June 9, 2005, the Commission adopted Regulation NMS, which established new substantive rules designed to modernize and strengthen the regulatory structure of the U.S. equities markets.[4] Among other things, Regulation NMS adopted an Order Protection Rule[5] that requires trading centers to establish, maintain, and

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 2 17 CFR 240.19b–4.

[3] Beginning on February 4, 2008, members also will be required to record and report order information regarding all OTC equity securities, as defined in NASD Rule 6951. *See* Securities Exchange Act Release No. 54585 (October 10, 2006), 71 FR 61112 (October 17, 2006) (SR–NASD–2005–101); *see also* NASD *Notice to Members* 06–70 (December 2006) and Securities Exchange Act Release No. 55440 (March 9, 2007), 72 FR 12852 (March 19, 2007) (SR–NASD–2007–019).

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[5] 17 CFR 242.611.

enforce written policies and procedures reasonably designed to prevent the execution of trades at prices inferior to protected quotations displayed by automated trading centers, subject to applicable exceptions. One of the exceptions from the Order Protection Rule is when the transaction that constitutes a trade-through [6] is ''effected by a trading center that simultaneously routed an intermarket sweep order to execute against the full displayed size of any protected quotation in the NMS stock that was traded through.'' [7]

The purpose of the proposed rule change is to require member firms to record the fact that an order in an OATS-eligible security is an ISO when the member routes an ISO to another member or non-member. The member would be required to include this information in the Route Report it submits to NASD pursuant to the OATS Rules.[8] This requirement will ensure that NASD knows that the order was an ISO and can utilize that information when reviewing audit trails to ensure compliance with Regulation NMS.[9]

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date will be February 4, 2008, to coincide with the changes to the OATS Rules approved by the Commission on October 10, 2006.[10] Although firms will not be required to begin using the ISO routing method code on Route Reports until February 4, 2008, NASD states that the code will be available for use by firms beginning on June 11, 2007. Firms are encouraged to use the ISO code on their Route Reports as soon as possible to facilitate NASD's ability to determine whether the trade was made in reliance on an ISO exception from the Order Protection Rule.[11] As noted in the December 11, 2006 version of the *OATS Reporting Technical Specifications,* firms will be required to use the ISO Special Handling Code on New Order Reports upon implementation of the Order Protection Rule.[12]

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[13] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will enhance OATS data and ensure that NASD is able to monitor compliance with Regulation NMS in a more effective manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor 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 NASD 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–NASD–2007–028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2007–028. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All

[6] A ''trade-through'' is ''the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer.'' *See* 17 CFR 242.600(b)(77).

[7] *See* 17 CFR 242.611(b)(6). The phrase ''intermarket sweep order'' is defined as ''a limit order for an NMS stock that meets the following requirements: (i) When routed to a trading center, the limit order is identified as an intermarket sweep order; and (ii) Simultaneously with the routing of the limit order identified as an intermarket sweep order, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order identified as an intermarket sweep order. These additional routed orders must also be marked as intermarket sweep orders.'' The proposed rule change adopts this same definition of intermarket sweep order for purposes of the OATS Rules. *See* 17 CFR 242.600(b)(30).

[8] When a member transmits an order in an OATS-eligible security to another member, electronic communications network, non-member, or exchange for handling or execution, the routing member is required to submit a Route Report to NASD. The categories of information that a member must include in a Route Report are set forth in NASD Rule 6954(c) and in the *OATS Reporting Technical Specifications* published by NASD.

[9] Members are also required to submit New Order Reports when they receive an order in an OATS-eligible security. NASD Rule 6954(b) and the *OATS Reporting Technical Specifications* set forth the information that a member must include in a New Order Report. NASD Rule 6954(b)(15) already requires members to include ''special handling requests, specified by [NASD] for purposes of this Rule.'' Pursuant to that provision, the most recent version of the *OATS Reporting Technical Specifications* includes a new special handling code for ISOs in New Order Reports, which would be used when a member relies on the exception from the Order Protection Rule for a transaction that ''was the execution of an order identified as an intermarket sweep order.'' *See* 17 CFR 242.611(b)(5). Because NASD Rule 6954(b) already provides NASD with the authority to establish a new code for ISOs in New Order Reports, the proposed rule filing does not address that portion of the rule and only seeks to establish a new code for ISOs in Route Reports under NASD Rule 6954(c).

[10] *See supra* note 3.

[11] 17 CFR 242.611.

[12] *Id.*

[13] 15 U.S.C. 78*o*–3(b)(6).

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2007–028 and should be submitted on or before June 21, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10405 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55799; File No. SR–NSX–2006–16]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Order Approving Proposed Rule Change Regarding the Annual Certification of Compliance and Supervisory Processes

May 22, 2007.

I. Introduction

On November 22, 2006, the National Stock Exchange, Inc. (''NSX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding the annual certification of compliance supervisory processes. On April 9, 2007, the NSX filed Amendment No. 1 to the proposed rule change (''Amendment No. 1'').[3] The proposed rule change was published for comment in the **Federal Register** on April 19, 2007,[4] and the Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposed Rule 5.7 to require each Equity Trading Permit (''ETP'') Holder to have its Chief Executive Officer (''CEO''), or equivalent officer, certify annually to having in place processes to establish, maintain, review, modify, and test policies and procedures reasonably designed to achieve compliance with applicable NSX rules and federal securities laws and regulations. The Exchange explains that this will help promote comprehensive and effective compliance policies and written supervisory procedures among NSX ETP Holders, and that compliance with applicable NSX rules and federal securities laws and regulations is the foundation of ensuring investor protection and market integrity and is essential to the efficacy of self-regulation. Similar requirements are already in place for NASD and NYSE member firms, addressing their compliance with the rules of those self-regulatory organizations.[5]

The proposed rule change also would create a new Interpretation and Policy .01 to NSX Rule 5.7. This interpretation sets forth the language of the required certification.[6] The interpretation also sets forth additional guidance for following those requirements, explaining that during the required annual meeting between the CEO and chief compliance officer, the parties should discuss and review the matters that are subject of the certification as well as the ETP Holder's compliance efforts to date, and also should identify and address significant compliance problems and plans for emerging business areas.[7] ETP Holders must also prepare a report that documents the ETP Holder's processes for establishing, maintaining, reviewing, testing and modifying compliance policies.[8] The report may be combined with compliance reports or similar reports required by other self-regulatory organizations.[9]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with Section 6(b) of the Act,[10] and, in particular, with Section 6(b)(5) [11] of the Act, which requires, among other things, that the NSX's rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.[12]

The proposal that NSX ETP Holders follow procedures to help ensure compliance with NSX rules and the federal securities laws will complement broker-dealers' obligations under other self-regulatory organization rules, while particularly promoting compliance with rules specific to NSX. By permitting member firms to make the required reports in conjunction with reports required by other self-regulatory organizations, moreover, the proposal should accomplish those aims in an efficient manner.

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which supplemented the original filing, the NSX provided more information regarding the certification process and corrected a grammatical error.

[4] *See* Exchange Act Release No. 55631 (April 13, 2007), 72 FR 19733 (April 19, 2007) (SR–NSX–2006–16).

[5] *See* NASD Rule 3013(b) and Interpretative Material 3013 (''IM 3013''); NYSE Rule 342.30.

[6] The certification would state that the ETP Holder has in place processes to: (a) Establish and maintain policies and procedures reasonably designed to achieve compliance with applicable NSX rules and federal securities laws and regulations; (b) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and (c) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with applicable NSX rules, and federal securities laws and regulations. *See* Proposed Interpretation and Policy .01, paragraph 1.

In addition, the certification would have to state that the CEO or equivalent officer has conducted one or more meetings with the chief compliance officer in the preceding 12 months to satisfy these obligations. *See* Proposed Interpretation and Policy .01, paragraph 2.

The certification further would provide that the ETP Holder's processes are evidenced in a report that has been reviewed by the CEO or equivalent officer, chief compliance officer, and such other officers as the ETP Holder may deem necessary, and that the final report would be submitted to the ETP Holder's board of directors and audit committee at the earlier of their next scheduled meetings or within 45 days of the date of execution of the certification. *See* Proposed Interpretation and Policy .01, paragraph 3.

Finally, the certification would provide that the CEO or equivalent officer has consulted with the chief compliance officer and other officers as applicable, as well as such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate to attest to the statements made in the certification. *See* Proposed Interpretation and Policy .01, paragraph 4.

[7] *See* Proposed Interpretation and Policy .01.

[8] *See id.* Any principal designated by the ETP Holder may prepare the report, which must be produced prior to execution of the certification and be reviewed by the CEO or equivalent officer, chief compliance officer and any other officers the ETP Holder deems necessary to make the certification. It must be provided to the ETP Holder's board of directors and audit committee in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification. The report should include the manner and frequency in which the processes are administered, and identify the officers and supervisors responsible for that administration. The report, however, need not contain any conclusions resulting from following those processes.

[9] In that case, the report must be titled in a manner that indicates it is responsive to the requirements of the certification and Rule 5.7; (2) an ETP Holder that submits a report for review in response to a NSX request must submit the report in its entirety; and (3) the ETP Holder must make the report in a timely manner.

[10] 15 U.S.C. 78(f)(b).

[11] 15 U.S.C. 78f(b)(5).

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [13] that the proposed rule change (SR–NSX–2006–16), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10375 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55807; File No. SR–NSX–2007–06]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Liquidity Provider Rebate Program for Transactions Executed Through NSX BLADE in Which the Order Delivery Mode of Interaction Has Been Selected

May 23, 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 14, 2007, the National Stock Exchange, Inc. (''NSX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. NSX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing a change to its liquidity provider rebate program for transactions that are executed through NSX BLADE, the Exchange's new trading platform. The Exchange wishes to modify its liquidity provider rebate program for only those orders in which the User effecting such order has chosen the order delivery mode of order interaction as set forth in NSX Rule 11.13(b)(2) (''Order Delivery''). The text of the proposed rule change is available at NSX, the Commission's Public Reference Room, and *www.nsx.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, NSX 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. NSX 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 has created a new state of the art trading platform, known as NSX BLADE, which utilizes a strict price/time priority system. Pursuant to Exchange Rule 16.1(a), the Exchange maintains a Fee Schedule that contains its current fees, dues, and other charges applicable to transactions in NSX BLADE (''NSX BLADE Fee Schedule'').

Currently, the NSX BLADE Fee Schedule provides for an execution fee of $0.0030 per share for removing liquidity from NSX BLADE (in other words, a charge for taking liquidity against an order in NSX BLADE), and a rebate of $0.0030 per share executed for adding liquidity into NSX BLADE (in other words, a rebate for the addition of liquidity to NSX BLADE, provided that it results in an execution through NSX BLADE) regardless of the mode of order interaction chosen by an ETP Holder. Thus, ETP Holders taking liquidity against an order in NSX BLADE are currently charged a fee of $0.0030 per share executed, and ETP Holders providing liquidity into NSX BLADE are currently paid a rebate of $0.0030 per share executed. Similarly, orders executed at less than $1.00 per share will result in either a rebate or an execution fee for a dollar amount equal to 0.3% of the price per share, multiplied by the number of shares executed.

NSX Rule 11.13(b) establishes two separate modes of order interaction from which ETP Holders may choose: Automatic Execution and Order Delivery. The Exchange is proposing that the NSX BLADE Fee Schedule be modified so that ETP Holders who have selected the Automatic Execution mode of order interaction pursuant to NSX Rule 11.13(b)(1) be granted rebates at a different rate than ETP Holders who have selected the Order Delivery mode of order interaction. Specifically, the Exchange is proposing that the rebate for adding liquidity for ETP Holders who have selected Order Delivery be reduced to $0.0028 for orders executed at $1.00 or more per share. The rebate for adding liquidity for ETP Holders who have selected Order Delivery for orders executed at less than $1.00 per share will be reduced to 0.28% of the price per share, multiplied by the number of shares executed. The Exchange believes this change in its liquidity provider rebate is appropriate because the Order Delivery mode of order interaction involves greater cost and regulatory burden for the Exchange. All other liquidity taker fees and liquidity provider rebates will remain unchanged.

Pursuant to NSX Rule 16.1(c), the Exchange will ''provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange.'' Accordingly, ETP Holders will, simultaneously with this filing, be notified through the issuance of a Regulatory Circular of the changes to the NSX BLADE Fee Schedule.

The Exchange liquidity taker fees and liquidity provider rebates have been designed in this manner in order to ensure that the Exchange can continue to fulfill its obligations under the Act.

2. Statutory Basis

NSX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(4) of the Act,[6] in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[13] 15 U.S.C. 78s(b)(2).

[14] 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)(2).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 thereunder [8] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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 Number SR–NSX–2007–06 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–NSX–2007–06. 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 NSX. 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–NSX–2007–06 and should be submitted on or before June 21, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10377 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55804; File No. SR–NYSE–2007–21]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Rule 92 (Limitations on Members' Trading Because of Customers' Orders)

May 23, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 23, 2007, New York Stock Exchange LLC (''NYSE'' 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. On May 22, 2007, NYSE submitted 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

NYSE proposes to amend Rule 92 to permit, among other things, members or member organizations to trade ahead of a customer order if the purpose of the proprietary order is to execute, on a riskless principal basis, another order from a customer and to expand the consent provisions for trading along under Rule 92(b). The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it had 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 amend NYSE Rule 92 in order to permit member organizations to combine multiple orders into a single order and to route the order to the Display Book® for execution on a riskless principal basis via Exchange execution systems. In addition, the Exchange proposes to change the notification and consent provision of Rule 92(b) to permit customers to provide affirmative blanket consent, subject to certain requirements, rather than the current requirement that members and member organizations obtain and document consent for members to trade along with customer orders on an order-by-order basis. Finally, the Exchange proposes adding an additional exemption to Rule 92 to permit a member organization in certain situations to enter Regulation NMS (''Reg. NMS'') intermarket sweep orders at the Exchange, subject to certain conditions, including that the firm yield its principal executions to any open customer orders that are required to be protected by Rule 92. The Exchange proposes these changes to harmonize Rule 92 with similar rules of the NASD and to address the changes to the marketplace because of the implementation of NYSE's Hybrid Market and Reg. NMS.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

Riskless Principal Transactions

NYSE Rule 92 generally prohibits members or member organizations from trading on a proprietary basis ahead of, or along with, customer orders that are executable at the same price as the proprietary order.[4] The rule contains several exceptions that make it permissible for a member or member organization to enter a proprietary order while representing a customer order that could be executed at the same price, so long as it is not for an account of an individual investor and the customer has provided express permission (referred to herein as a ''Rule 92(b) proprietary order'').[5]

The Exchange's proposed amendment would add a new subsection to Rule 92 that would permit riskless transactions for the purpose of facilitating the execution, on a riskless principal basis, of one or more customer orders. The proposed rule defines a riskless principal transaction as one in which a member or member organization, after having received one or more orders to buy (sell) a security, purchases (sells) the security as principal at the same price to satisfy the order(s) to buy (sell). Under the rule, the member would be required to give the customer the same price it received, exclusive of any markup or markdown, commission or commission equivalent, or other fee.

The proposed amendment seeks to harmonize the rules of NYSE with similar rules of the NASD, in particular, the NASD's so-called Manning Rule, which permits riskless principal orders as an exception to the rule prohibiting trading ahead of customer market and limit orders on the NASDAQ market.[6] The Manning Rule is an interpretation of NASD customer protection rules, which, like NYSE Rule 92, generally prohibit firms from executing proprietary orders ahead of customer orders that could be executed at the same price. The Exchange states that the Manning exception was adopted to permit NASD broker/dealers to manage their order flow more efficiently; instead of executing a group of like customer orders individually, the rule permits market makers to aggregate like customer orders, execute a single trade as principal in the market in place of those orders, and then allocate shares back to the customers within 60 seconds of receiving a report on the riskless principal trade and at the same price as the riskless principal trade, exclusive of any markup or markdown, commission or commission equivalent, or other fee. Currently, NYSE has no equivalent exception to Rule 92 to permit more efficient riskless principal trading on NYSE. The proposed amendment adapts the riskless principal requirements of the Manning Rule described above, and integrates those requirements into the existing requirements of NYSE Rule 92, as follows.

The Exchange proposes adopting the underlying order requirements of the Manning Rule for riskless principal transactions at the Exchange. Accordingly, the Exchange proposes that a riskless principal transaction can be effected on behalf of any customer order, regardless of whether from an institutional account or an individual investor. The Exchange believes that adopting the riskless principal transaction requirements of the Manning Rule will ensure that the marketplace will run efficiently and will enable member organizations to both comply with their Reg. NMS requirements and meet best execution requirements for customers.

Further requirements for proposed riskless principal transactions include that the receipt time reference for the underlying order would have to be before the execution report time reference of the riskless principal transaction. Within 60 seconds of receiving an execution report from NYSE on the riskless principal transaction, members or member organizations would be required to allocate to the accounts represented in the riskless principal transaction the same price at which the order was executed on NYSE, exclusive of any markup or markdown, commission equivalent, or other fee.

In addition, under the proposed amendment, firms would be permitted to aggregate only orders whose order types and instructions (including tick restrictions) permit such aggregation. The Exchange believes that such aggregating meets the standards set forth in the Commission's July 18, 2005 letter to the Securities Industry Association (''SIA''),[7] in which the Commission granted a riskless principal exemption from Rule 10a–1 under the Act to permit a broker-dealer to fill customer orders without complying with the ''tick'' provisions of the Rule, in certain situations and subject to certain conditions, as set forth in the letter.

Firms would need to disclose to customers the method by which the firm would allocate the shares bought or sold in the riskless principal transaction (*e.g.*, strict time priority, precedence based on size, etc.), and would be required to allocate shares in accordance with that method. Such method must be fair and reasonable, be consistently applied, and not unfairly discriminate against any particular class of accounts or types of orders. The Exchange would not require a specific allocation methodology, but would require that the chosen method be adequately disclosed to customers and be consistent with rules governing parity of orders.

The Exchange would require member organizations to keep certain books and records in connection with riskless principal transactions. In particular, when executing riskless principal transactions, firms would be required to submit order execution reports to the Exchange's Front End Systemic Capture database linking the execution of the riskless principal order on the Exchange to the specific underlying orders. The information that will be provided must be sufficient for both member firms and the Exchange to reconstruct in a time-sequenced manner all orders, including allocations to the underlying orders, with respect to which a member organization is claiming the riskless principal exception.

As with the Manning Rule, in allocating riskless principal transactions, if the riskless principal transaction includes Rule 92(b) proprietary orders, orders from customers that have consented to trade along with Rule 92(b) proprietary orders, and orders from customers that either have not or cannot consent (for example, an individual investor with an order of less than 10,000 shares) to the member firm trading along with those orders, the Rule 92(b) proprietary orders and any customer orders that have consented to trading along with such proprietary orders must yield to the non-consenting customer orders.

Customer Consent Under Rule 92(b)

The Exchange further proposes amending the requirements surrounding the obtaining of customer consent to trade along with customer not-held orders. Under current Rule 92(b), the Exchange requires that a customer provide express permission, including an understanding of the relative price

[4] For the purposes of this rule filing and NYSE Rule 92, the terms proprietary order and principal order have the same meaning.

[5] In general, these are transactions in which the member or member organization is: (1) Liquidating a position held in a proprietary facilitation account and the customer's order is for 10,000 shares or more; (2) creating a bona fide hedge; (3) modifying an existing hedge; or (4) engaging in a bona fide arbitrage or risk arbitrage transaction.

[6] *See* NASD Rule 2111 and IM–2110–2.

[7] *See* letter to Ira Hammerman, Senior Vice President and General Counsel, SIA, from James A. Brigagliano, Assistant Director, Division of Market Regulation (''Division''), Commission, dated July 18, 2005 (available at *www.sec.gov/divisions/marketreg/mr-noaction/sia071805.htm*).

and size of allocated execution reports, before permitting execution of one of the specified proprietary orders under that rule that could be executed at the same price as the customer's order. The Exchange has interpreted this provision to require that consent to trade along be obtained and documented on an order-by-order basis.

As the Exchange has transitioned to the Hybrid Market, with its greater prevalence of automated executions and rapid pace of order execution, and with the implementation of Reg. NMS, the Exchange has concluded that the current order-by-order consent rule and attendant documentation requirements have become outmoded and can operate to impede market efficiencies. Moreover, the order-by-order consent requirement for trading along in Rule 92 is inconsistent with other similar situations where firms are permitted to obtain a general or ''blanket'' approval to trade along with not-held customer orders, provided they are accompanied by appropriate disclosures.[8]

The Exchange accordingly is proposing to modify the consent requirement of NYSE Rule 92(b) to eliminate the order-by-order consent and instead provide that customers may give ''blanket'' affirmative written consent for a member firm to trade along provided that: (i) the customer has received adequate prior affirmative notice of the fact that the member or member organization may trade along with its orders, including a disclosure of the method by which the member organization will allocate shares to the customer's order and a disclosure relating to the allocation methodology for riskless principal transactions that include both a Rule 92(b) proprietary order and an order from a customer that has not consented to trade along with a Rule 92(b) proprietary order; (ii) the customer affirmatively consents prior to such trading by the member or member organization; and (iii) the member or member organization's trading along is permitted under one of the exceptions contained in NYSE Rule 92.

The Exchange believes that this proposed consent requirement would provide the same level of investor protection as the current consent requirement because both standards require disclosures and consent before a member organization can enter a Rule 92(b) proprietary order. However, by eliminating the order-by-order consent, the Exchange believes that the proposed consent requirement would reduce the burden associated with obtaining consent in advance of each transaction, thus permitting member organizations to trade in the faster environment of today's marketplace without having to pause before each trade to obtain consent.

The Exchange proposes that member organizations can document such affirmative consent either by (i) a signed writing from the customer that acknowledges the disclosures, including that a customer can opt-out on an order-by-order basis, and provides consent; or (ii) documenting consent that was provided orally, provided that written disclosures were provided to the customer before obtaining the oral consent and the member organization provides written notice to the customer documenting that oral consent. Once a customer has provided affirmative written consent and so long as firms continue to provide written disclosures on a periodic basis, member organizations will not need to renew such affirmative consent.

The Exchange further proposes expanding the class of investors that may consent to a Rule 92(b) proprietary order. Under the Manning Rule, the NASD permits customers that meet the NASD's definition of an institutional account and individual customers with orders of 10,000 shares or more, unless such orders are less than $100,000 in value, to consent to trade along with a member's proprietary order. In contrast, the current Rule 92 bars both individual investors and institutional investors with orders of less than 10,000 shares from consenting to a member or member organization from trading along with their orders. To harmonize this portion of the rules, the Exchange proposes amending the class of investors that can consent to a member or member organization trading along with a customer order to include all institutional investors, regardless of the size of the order, and individual investors with orders of 10,000 shares or more, unless such orders are less than $100,000 in value. To ensure consistency, the Exchange proposes to incorporate, for purposes of Rule 92 only, NASD's definition of an ''institutional account,'' [9] and therefore proposes adding that definition to the supplementary material to Rule 92.

Customers would retain the ability to ''opt-out'' on a trade-by-trade basis or to modify the instructions obtained under blanket consent, since the customer always has the option to submit an order with an instruction that the member or member organization not trade along or alter the terms for trading along with the order. The Exchange would require members and member organizations to periodically disclose this to customers as well.

Once a customer provides such ''blanket'' consent, a member or member organization may trade on a proprietary basis along with a customer order that is executable at the same price as a proprietary order that meets the exceptions set forth in Rule 92(b). A member or member organization may seek to include a Rule 92(b) proprietary order with a proposed Rule 92(c) riskless principal order. In such case, even though a single order is transmitted to the Exchange, the order would include both riskless and risk elements, and therefore would no longer be a pure riskless principal transaction. For purposes of parity, Exchange systems will recognize the riskless principal order as an agency order, regardless of whether the order includes any Rule 92(b) proprietary orders. However, when allocating the underlying orders, Rule 92(b) proprietary orders and any customer orders that have consented to the Rule 92(b) proprietary orders must yield to customer orders that have not or cannot consent to a Rule 92(b) proprietary order. This allocation methodology must be disclosed to customers that consent to trade along with Rule 92(b) proprietary orders. If the riskless principal transaction represents only agency orders and does not include any proprietary orders, regular allocation of the underlying orders would apply.

Exemption for Reg. NMS-Compliant Intermarket Sweep Orders

The Exchange also proposes amending Rule 92 to add an exemption so that, when facilitating a customer order that would otherwise require the firm to either violate Rule 92 or trade through protected quotations, member organizations can comply with their Reg. NMS obligation without also violating Rule 92. Under the current rule, if a member organization is required to route intermarket sweep orders as principal to execute against the full displayed size of any protected quotation in a security (''ISO''), for example, when facilitating a customer order at a price inferior to the national best bid or offer or other protected quotations and in compliance with

[8] *See, e.g.*, Information Memo 05–52 (requiring member firms to provide periodic affirmative notice regarding their practice in trading for their proprietary accounts while in possession of customer VWAP orders); *see also* Information Memo 05–81 (deeming customers to consent to their Floor brokers' decision to permit a specialist to trade on parity with their orders, provided that the Floor broker has adequately disclosed to the customer as to the broker's regular practice in this regard).

[9] *See* NASD Rule 3110(c)(4).

Rules 600(b)(30)(ii) and 611(b)(6) of Reg. NMS,[10] the ISO could violate Rule 92 by trading ahead of or along with open customer orders.

The proposed exemption provides that when routing ISOs, the member organization must yield its principal executions to any open customer orders that are required to be protected by Rule 92 and capable of accepting the fill. As defined in Rule 92(a), customer orders that are required to be protected are those open customer orders that are known to the member organization before entry of the ISO. In addition, the proposed exemption would require that if a firm executes an ISO to facilitate a customer order at a price inferior to one or more protected quotations, that customer must consent to not receiving the better price obtained by the ISO(s) or the firm must yield its principal execution to that customer.[11] For purposes of this amendment, the Exchange further proposes adopting the definitions of Reg. NMS in connection with the terms ''protected quotation'' and ''intermarket sweep order.'' [12]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [13] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[10] 17 CFR 242.600(b)(30)(ii) and 17 CFR 242.611(b)(6).

[11] Telephone conversation between Clare F. Saperstein, Principal Rule Counsel, Market Surveillance, NYSE, and Theodore S. Venuti, Attorney, Division, Commission, on May 23, 2007.

[12] *See* 17 CFR 242.600(b)(7) and (30).

[13] 15 U.S.C. 78f(b)(5).

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 NYSE consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–NYSE–2007–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All 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 publicly available. All submissions should refer to File Number SR–NYSE–2007–21 and should be submitted on or before June 21, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10404 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55803; File No. SR–Phlx–2007–37]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Extension of a Pilot Concerning the Exchange's Directed Order Program

May 23, 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 8, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On May 10, 2007, the Exchange filed Amendment No. 1. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal as modified by Amendment No. 1 on an accelerated basis, for a pilot period through May 27, 2008.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to extend, for an additional one year period, a pilot program concerning Exchange Rule 1080, Phlx Automated Options Market (AUTOM) [3] and Automatic Execution

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing

Continued

System (AUTO–X), and Exchange Rule 1014, Obligations And Restrictions Applicable To Specialists And Registered Options Traders. Specifically, the pilot program covers: (1) Exchange Rule 1080(l), Directed Orders, under which Exchange specialists, Streaming Quote Traders (''SQTs'')[4] and Remote Streaming Quote Traders (''RSQTs'')[5] trading on the Exchange's electronic options trading platform, Phlx XL,[6] receive Directed Orders (as defined below); and (2) Exchange Rule 1014(g)(viii), which sets forth the trade allocation algorithm for electronically executed and allocated trades involving Directed Orders. This proposal is in connection with a pilot program that is currently scheduled to expire on May 27, 2006.[7]

The text of the proposed rule change is available on Phlx's Web site at *http://www.phlx.com,* at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend, for an additional one-year period, a pilot that allows specialists, SQTs, and RSQTs assigned in options that trade on Phlx XL to receive directed orders (''Directed Orders'')[8] from a member or member organization (''Order Flow Provider'' or ''OFP'')[9] that submits, as agent, the customer order to the Exchange through AUTOM, and establishes a trade allocation algorithm for Directed Orders that are electronically executed and allocated to reward such Directed Specialists, SQTs and RSQTs with a participation guarantee for attracting such order flow to the Exchange.[10] The proposed rule is subject to a pilot program scheduled to expire on May 27, 2007. The extended pilot would expire May 27, 2008.

Pursuant to Rule 1080(l), OFPs must transmit Directed Orders to a particular specialist, SQT or RSQT through AUTOM. If the Exchange's disseminated best bid or offer is at the National Best Bid or Offer when the Directed Order is received, the Directed Order is automatically executed on Phlx XL and allocated to the orders and quotes represented in the Exchange's quotation. A Directed Specialist, SQT or RSQT will receive a participation allocation pursuant to Rule 1014(g)(viii) if the Directed Specialist, SQT or RSQT was quoting at the NBBO at the time that the Directed Order was received.[11] Otherwise, the automatic execution will be allocated to those quotations and orders at the NBBO pursuant to Rule 1014(g)(vii).[12] The specialist will manually execute Directed Orders that are received when the Exchange is not quoting at the NBBO.[13]

The Exchange believes that the pilot program rewards specialists, SQTs and RSQTs for actively engaging in marketing activities and establishing relationships with OFPs that generate Directed Orders sent to the Exchange by such OFPs. The Exchange believes that the pilot program will result in additional order flow to the Exchange, thus adding depth and liquidity to the Exchange's markets, and enabling the Exchange to continue to compete effectively with other options exchanges for order flow.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5) of the Act[15] in particular, in that it 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 permitting specialists, SQTs and RSQTs trading options on Phlx XL to receive Directed Orders, and by encouraging the capture of order flow on the Exchange by rewarding Directed Order recipients with a participation guarantee in trades involving Directed Orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2007–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary,

of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution features, AUTO–X, Book Sweep and Book Match. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. AUTOM is today more commonly referred to as Phlx XL. *See* Exchange Rule 1080.

[4] An SQT is an Exchange Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[5] An RSQT is a participant in the Exchange's electronic trading system, Phlx XL who has received permission from the Exchange to trade in options for his own account, and to generate and submit option quotations electronically from off the floor of the Exchange through AUTOM in eligible options to which such RSQT has been assigned.

[6] *See* Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR–Phlx–2003–59).

[7] *See* Securities Exchange Act Release No. 53870 (May 25, 2006), 71 FR 31251 (June 1, 2006) (SR–Phlx–2006–27). *See also* Securities Exchange Act Release No. 51759 (May 27, 2005), 70 FR 32860 (June 6, 2005) (SR–Phlx–2004–91) (''May 2005 Approval Order'').

[8] *See* Exchange Rule 1080(l)(i)(A).

[9] *See* Exchange Rule 1080(1)(i)(B).

[10] *See* Exchange Rule 1080(1). The word ''Directed'' modifies all three; that is, it is referring to a Directed Specialist, Directed SQT and Directed RSQT.

[11] *See* Exchange Rule 1080(l)(ii).

[12] *See* Exchange Rule 1080(l)(iii).

[13] *See* Exchange Rule 1080(l)(iv).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2007–37. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2007–37 and should be submitted on or before June 21, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [16] and the rules and regulations thereunder applicable to a national securities exchange,[17] and, in particular, the requirements of Section 6(b)(5) of the Act.[18] Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Exchange's Directed Order Program was originally approved on a one-year basis and subsequently extended for an additional year, in order to give the Commission an opportunity to evaluate the impact of the pilot program on the options markets to determine whether it would be beneficial to customers and to the options markets as a whole before approving any request for permanent approval of the pilot program. The Exchange has asked the Commission to approve the proposed rule change on an accelerated basis for an additional year so that the pilot program may continue uninterrupted. The Commission is approving the one-year extension so that the Exchange can continue to evaluate the Exchange's Directed Order Program.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval of the proposed rule change would allow the pilot program to continue without disruption for an additional year in order for the Exchange to continue to evaluate its Directed Order Program. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[19] for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Phlx–2007–37), as modified by Amendment No. 1, which institutes the pilot program through May 27, 2008, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10376 Filed 5–30–07; 8:45 am]

BILLING CODE 8010–01–P

[16] 15 U.S.C. 78f.

[17] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b)(2).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before July 30, 2007.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Ann Bradbury, Deputy Director, Office of Women Business Ownership, Small Business Administration, 409 3rd Street SW., 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Ann Bradbury, Deputy Director, Office of Women Business Ownership, 202–205–7507, *ann.bradbury@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: ''Entrepreneurial Development Management Information System (EDMIS) Counseling Information Form & Management Training Report.

Description of Respondents: New established and prospective small business owners using the services and program by the business.

Form No: 641, 888.

Annual Responses: 276,489.

Annual Burden: 82,947.

Curtis B. Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. E7–10462 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0454]

Emergence Capital Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Emergence Capital Partners SBIC, L.P.,

proposes to provide equity financing to inQ, Inc. (''inQ''), Agoura Road, Suite 203, Agoura Hills, CA 91301. The financing is contemplated to fund the ongoing operating needs of the business.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Emergence Capital Partners, L.P. and Emergence Capital Associates, L.P., all Associates of Emergence Capital Partners SBIC, L.P., own more than ten percent of inQ, and therefore inQ is considered an Associate of Emergence Capital Partners SBIC, L.P., as detailed in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: April 24, 2007.

Harry Haskins,

Deputy Associate Administrator for Investment.

[FR Doc. E7–10385 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0456]

Horizon Ventures Fund II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Horizon Ventures Fund II, L.P., 4 Main Street, Suite 50, Los Altos, CA 94022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Horizon Ventures Fund II, L.P. proposes to provide convertible bridge financing to Venturi Wireless, Inc., Sunnyvale Research Plaza, 555 N. Mathilda Avenue, Suite 100, Sunnyvale, California 94085. The financing is contemplated for working capital, marketing, and research & development.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Horizons Ventures Fund I, L.P. and Horizons Ventures Advisors Fund I, L.P., all Associates of Horizon Ventures Fund II, L.P., own more than ten percent of Venturi Wireless, Inc., and therefore Venturi Wireless, Inc., is considered an Associate of Horizon Ventures Fund II as detailed in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: April 24, 2007.

Harry Haskins,

Deputy Associate Administrator for Investment.

[FR Doc. E7–10383 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10866 and # 10867]

Kansas Disaster Number KS–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1699–DR), dated 5/6/2007.

Incident: Severe Storms, Tornadoes, and Flooding

Incident Period: 5/4/2007 and continuing.

DATES: Effective Date: 5/18/2007.

Physical Loan Application Deadline Date: 7/5/2007.

EIDL Loan Application Deadline Date: 2/6/2008.

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 the Presidential disaster declaration for the State of Kansas, dated 5/6/2007 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Barton, Osborne, Ottawa, Phillips.

Contiguous Counties:

Kansas: Clay, Cloud, Dickinson, Ellis, Ellsworth, Graham, Jewell, Lincoln, Mitchell, Norton, Rooks, Rush, Russell, Saline, Smith.

Nebraska: Franklin, Harlan.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–10384 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10866 and #10867]

Kansas Disaster Number KS–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1699–DR), dated 05/06/2007.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/04/2007 and continuing through 05/18/2007.

DATES: *Effective Date:* 05/18/2007.

Physical Loan Application Deadline Date: 07/05/2007.

EIDL Loan Application Deadline Date: 02/06/2008.

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 the President's major disaster declaration for the State of Kansas, dated 05/06/2007 is hereby amended to establish the incident period for this disaster as beginning 05/04/2007 and continuing through 05/18/2007.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–10464 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10871 and #10872]

Maine Disaster Number ME–00008

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Maine (FEMA–1693–DR) , dated 05/09/2007.

Incident: Severe Storms and Inland and Coastal Flooding.

Incident Period: 04/15/2007 through 04/23/2007.

DATES: *Effective Date:* 05/24/2007.

Physical Loan Application Deadline Date: 07/09/2007.

EIDL Loan Application Deadline Date: 02/11/2008.

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 the Presidential disaster declaration for the State of Maine, dated 05/09/2007 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: Knox, Lincoln, Oxford, Sagadahoc.

Contiguous Counties:

Maine: Franklin, Kennebec, Waldo.

New Hampshire:

Coos.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell

Associate Administrator for Disaster Assistance.

[FR Doc. E7–10463 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10881 and # 10882]

South Dakota Disaster # SD–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–1702–DR), dated 5/22/2007.

Incident: Severe Storms, Tornadoes and Flooding.

Incident Period: 5/4/2007 and continuing.

DATES: *Effective Date:* 5/22/2007.

Physical Loan Application Deadline Date: 7/23/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 2/22/2008.

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: Notice is hereby given that as a result of the President's major disaster declaration on 5/22/2007, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Beadle, Brown, Clark, Davison, Hanson, Hutchinson, Miner, Sanborn, Spink, Yankton.

Contiguous Counties (Economic Injury Loans Only):

South Dakota: Aurora, Bon Homme, Charles Mix, Clay, Codington, Day, Douglas, Edmunds, Faulk, Hamlin, Hand, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Turner.

North Dakota: Dickey, Sargent.

Nebraska: Cedar, Knox.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10881 B and for economic injury is 108820.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–10386 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10862 and # 10863]

Texas Disaster Number TX–00251

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–1697–DR), dated 5/1/2007.

Incident: Severe Storms and Tornadoes.

Incident Period: 4/21/2007 through 4/24/2007.

DATES: *Effective Date:* 5/21/2007.

Physical Loan Application Deadline Date: 7/2/2007.

EIDL Loan Application Deadline Date: 2/1/2008.

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 the Presidential disaster declaration for the State of Texas, dated 05/01/2007 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: Atascosa.

Contiguous Counties:

Texas: Bexar, Frio, Karnes, La Salle, Live Oak, Mcmullen, Medina, Wilson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–10387 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region IX Regulatory Fairness Board

Pursuant to the Federal Advisory Committee Act, Appendix 2 of title 5, United States Code, Public Law 92–463, notice is hereby given that the U.S. Small Business Administration (SBA) Region IX Regulatory Fairness Board and the SBA Office of the National

Ombudsman will hold a National Regulatory Fairness Hearing on Thursday, June 14, 2007, at 10 a.m. The forum will take place at the U.S. Small Business Administration, Los Angeles District Office, 330 North Brand Boulevard, Suite 1200, Glendale, CA 91203. The purpose of the meeting is for Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting their members.

Anyone wishing to attend or to make a presentation must contact Natalie Orta, in writing or by fax in order to be placed on the agenda. Natalie Orta, Chief, Economic Development, SBA, Los Angeles District Office, 330 North Brand Blvd., Suite 1200, Glendale, CA 91203, phone (818) 552–3291 and fax (202) 481–4720, e-mail: *Natalie.orta@sba.gov*.

For more information, see our Web site at *www.sba.gov/ombudsman*.

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–10460 Filed 5–30–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5820]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Survey of International Educational Exchange Activity in the United States

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/S/A–08–01.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: October 1, 2007 to September 30, 2009.

Key Dates: Application Deadline: Friday, July 13, 2007.

Executive Summary: The Educational Information and Resources Branch, Office of Global Educational Programs, Bureau of Educational and Cultural Affairs (the Bureau) announces an open competition for a survey of International Educational Exchange Activity in the United States. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to conduct a statistical survey (census) of foreign nationals enrolled in institutions of higher learning in the United States. The survey must provide detailed individual student profile data and country-specific aggregate data that enumerate the numbers of foreign students and scholars from a given country affiliated with individual U.S. institutions. In addition, the report should include information about first-time enrollments to facilitate the analysis of enrollment trends. The survey, which should be conducted in the most cost-effective way possible, should identify the number of foreign students and scholars studying, conducting research, or teaching at all accredited universities and colleges in the United States during the 2007/2008 academic year (fall 2007 through summer 2008). Finally, the report should also include data about the number of American students studying abroad in credit-bearing programs of all types (year-long, semester, short-term and summer). Proposals should describe the methodology that will be used to collect the data and how the material will be analyzed and presented to the public. To the extent possible, cooperation is encouraged with the Department of Homeland Security on data comparison and sharing. Proposals must also include plans to establish an advisory board to provide assistance in identifying and framing policy issues that may need to be addressed by policy makers.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose

Since 1974, the State Department's Bureau of Educational and Cultural Affairs, with its mandate under the Fulbright-Hays Act to promote mutual understanding through international educational exchange, has supported an annual survey of foreign students in the United States in order to gain an accurate and up-to-date picture of international educational exchange activity in the United States. Recent reports have expanded on the original survey's parameters to include foreign scholars and U.S. students studying overseas. Proposals to conduct this project should describe plans for a statistical survey that would offer a detailed and comprehensive picture of the number and academic characteristics (major fields of study or program, level of study, etc.) of non-immigrant foreign nationals (that is, excluding permanent residents and refugees) affiliated with (*i.e.*, enrolled at, employed by, etc.) American institutions of higher learning, as well the number of U.S. students studying abroad. Topics that should be covered in the survey include the number of foreign students and scholars, their gender and countries of origin. Information about students' academic level (undergraduate, graduate, post-doctorate), fields of study, primary source of financial support, financial contributions they make while in the United States, and location of study should be included. Proposals may request Bureau funding of a publication, Web site, database, newsletter, or another medium that is presented as a viable vehicle for making this data widely available to the public in a timely manner and in a clear and concise format. The Bureau reserves the right to reproduce, publish or otherwise use any work developed under this grant for U.S. Government purposes.

Guidelines

Proposals should include a precise description of the methodology to be used to obtain the data called for in this solicitation. Applicants are reminded of the need to find the most efficient and economical approach to gathering the data and are encouraged to explore electronic data collection. Applicants should also seek ways of making the information available to the public within the academic year that it is collected. Data collected should be published and made available in coordination with the Bureau.

Applicants are also encouraged to include information about their capacity to carry out electronic surveys and to report on findings at the request of the Bureau that would focus on one or more critical issues related to international educational exchange that may arise during the period in which census data is being gathered.

To provide for a more detailed analysis and cross tabulation of the

characteristics of foreign students studying in the United States, individual student profile data should also be collected. This individual student profile data should be provided to the Bureau in a format that is country-specific and should show the number of students from a specific country attending selected institutions of higher education in each state of the U.S.

The Bureau seeks a clear presentation and rigorous analysis of the data collected that will draw conclusions about trends in foreign student enrollments, numbers of foreign scholars on U.S. campuses and American students studying abroad that can be used to guide policy discussions for both government and the educational community.

Proposals should describe the establishment of an advisory board to provide assistance in identifying and framing policy issues to be addressed in the survey; the board should meet at least once a year. Board members would likely be drawn from a broad range of educational associations and organizations and will be appointed in consultation with the Bureau. Members would be expected to provide perspectives on topics that are related to the internationalization of higher education.

Scholarly analyses of survey data addressing pertinent policy issues should be included in the final report, which will be read by policy-makers in government, the educational community, and business, as well as practitioners in international educational exchange. The report will also be covered by national and educational media organizations. The report should also include a narrative on the mechanics and uses of data analysis, highlighting how conclusions can be drawn from the data collected, some of the limitations of that analysis, and how the data can benefit the educational institutions supplying it, for example, as a campus advocacy or recruiting tool. Applicants should include with the proposal a complete list of proposed chapter headings and sample analyses.

The Bureau welcomes innovative approaches to the presentation of material, including possible breakdowns for minority-serving institutions such as Historically Black Colleges and Universities and the Hispanic Association of Colleges and Universities. The Bureau also encourages applicants to consider including reporting on other topics of current interest in the final report, such as:

(1) How the international exchange population is affected by U.S. visa policies;
(2) How student flows to the U.S. may have been affected by efforts of other countries to attract foreign students, by the expansion of the European Union and its efforts to build an academic market via the Bologna Agreement, etc.
(3) How political and economic trends in other countries are reflected in student flows to the U.S.;
(4) How economic trends in the U.S., including the rise in tuition levels and the cost of living, may have affected student flows to the U.S.;
(5) As an element of global trade, how international student flows may have commercial significance for the development of foreign markets for U.S. education and training;
(6) The impact of international students and scholars on U.S. academic institutions and departments;
(7) Demonstrated benefits of study abroad (for example, as seen by employers);
(8) U.S. institutions' activities to educate foreign students in their home countries, through, for example, overseas campuses or distance education programs, to complement the data collected on the education of foreign students in the United States;
(9) The numbers of foreign students studying in intensive English language programs in the United States.

In addition to the above, proposals should explain how the following activities might be undertaken:

• Use SEVIS data (if available) to conduct policy-relevant analysis of emerging issues in consultation with the Bureau and to provide trend data pertaining to international students in the U.S. (for example, key places of origin, including countries in Central Europe, Latin America, Asia, and the Middle East).

• Conduct surveys of international students' attitudes toward U.S. higher education in cooperation with the Department of State's network of EducationUSA centers. These centers promote U.S. higher education in 170 countries around the world. Centers exist in a variety of locations including: U.S. embassies and consulates, Fubright commissions, binational centers, non-governmental organizations, universities and libraries. A complete list of centers is located at *http://www.educationusa.state.gov.* These surveys might include a study of international students from key places of origin to determine their attitudes toward the U.S. and their perceptions of study in the U.S., or an overseas survey of the attitudes and perceptions of international students enrolled in U.S. branch campuses in selected countries.

• Conduct overseas surveys to collect contextual information on international students' decision making process in choosing to study abroad

• Report on higher education trends in key regions

• Conduct detailed analyses of the foreign student population. Analyses could include profiles of foreign students which contain comparative and cross-tabulated data that provide a deeper understanding of student flows, detailed information about sub-groups, *i.e.* the proportions of students in various fields of study, what proportion are female or male, what proportion of foreign students studying engineering is from Asia, etc.

• Conduct surveys through a web-based data collection system.

In a cooperative agreement, the Educational Information and Resources Branch (ECA/A/S/A) is substantially involved in program activities above and beyond routine grant monitoring. ECA/A/S/A activities and responsibilities for this program are as follows:

ECA/A/S/A will provide guidance on the types of issues and information to gather. Additionally, ECA/A/S/A may request the analysis of policy-relevant issues and trend data pertaining to international students in the U.S.

II. Award Information

Type of Award: Cooperative Agreement.

ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY 2008.

Approximate Total Funding: $400,000.

Approximate Number of Awards: 1.

Approximate Average Award: $400,000, pending availability of funds.

Anticipated Award Date: Pending availability of funds, October 1, 2007.

Anticipated Project Completion Date: September 30, 2009. Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years before the next competition. Future support will be contingent upon accurate data collection, quality of presentation of that data, and prompt publication of the census.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one grant, in an amount up to $400,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact the Educational Information and Resources Branch, ECA/A/S/A, Room 349, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, D.C. 20547, telephone: 202–453–8868, fax: 202–453–8890, e-mail: *MoraDD@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/S/A–08–05 located at the top of this announcement when making your request. Alternatively, an electronic application package may be obtained from *grants.gov.* Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Bureau Program Officer Dorothy Mora and refer to the Funding Opportunity Number ECA/A/S/A–08–05 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

The following is included for informational purposes only:

IV.3d.1 Adherence to All Regulations Governing the J Visa.

The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender,

religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation.

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable timeframe), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d. Describe your plans for: Sustainability, overall program management, staffing, and coordination with ECA.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Salaries and fringe benefits; travel and per diem;

(2) Other direct costs, inclusive of rent, utilities, etc.;

(3) Overhead expenses and auditing costs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: Friday, July 13, 2007.

Reference Number: ECA/A/S/A–01.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) electronically through *http://www.grants.gov*.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications.

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of

application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/A–08–01, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Sections at U.S. embassies for their review.

IV.3f.2. Submitting Electronic Applications.

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, 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 not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support; Contact Center Phone: 800–518–4726. Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time. E-mail: *support@grants.gov*.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program planning: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to achieve program objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity.

5. Institutional Capacity: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

6. Institution's Record/Ability: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

8. Cost-effectiveness: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

9. Cost-sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions''.

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus two copies of the following report: A final program and financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Dorothy Mora, Educational Information and Resources Branch, ECA/A/S/A, Room 349, ECA/A/S/A–08–01, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: 202–453–8868, fax: 202–453–8890, e-mail: *MoraDD@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/A–08–01.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: May 23, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E7–10475 Filed 5–30–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, along State Route 52 from east of Interstate 15 to Mast Boulevard in the County of San Diego, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency action subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 27, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Steve Healow, Project Development Engineer, Federal Highway Administration, 650 Capitol Mall #4–100, Sacramento, CA 95814, weekdays between the hours of 7 a.m. and 4 p.m., telephone 916–498–5849, *E-mail: Steve.Healow@fhwa.dot.gov* or David Nagy, Environmental Branch Chief, California Department of Transportation, MS 242, 4050 Taylor Street, San Diego, CA 92110, *Phone:* (619) 688–0224, *E-mail: david.nagy@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing a Finding of No Significant Impact constituting approval pursuant to the National Environmental Policy Act for the following highway project in the State of California. The project will widen State Route 52 from 12 to 24 feet into the median from east of Interstate 15 (Postmile 7.4) to Mast Boulevard (Postmile 13.3), a distance of 5.8 miles to accommodate an extra lane in each direction. The project proposes to increase capacity by adding a lane in both eastbound and westbound directions. The project would relieve peak hour traffic congestion, meet anticipated traffic increases, and improve traffic flow on State Route 52. [FHWA File #: 11–SD–52, PM 7.5/13.3] The actions by the Federal agency and the laws under which such actions were taken are described in the Final Environmental Assessment (FEA) for the project, approved on April 24, 2007, in the FHWA Finding of No Significant Impact (FONSI) issued on April 24, 2007 and in other documents in the FHWA project records. The FEA, FONSI, and other project records are available by contacting FHWA or the California Department of Transportation at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Migratory Bird Treaty Act [16 U.S.C. 703–712].

4. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

5. Clean Water Act (Section 401) [33 U.S.C. 1251–1377].

6. Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.

7. E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. § 139(*l*)(1).

Issued on: May 22, 2007.

David Tedrick,

Environmental Program Coordinator, Sacramento, CA.

[FR Doc. E7–10388 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28261]

Notice of Receipt of Petition for Decision That Nonconforming 1986 and 1987 Volkswagen Transporter Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1986 and 1987 Volkswagen Transporter multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1986 and 1987 Volkswagen Transporter multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 2, 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:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Autostadt West (Autostadt) of Rancho Cordova, CA (Registered Importer 06–346) has petitioned NHTSA to decide whether nonconforming 1986 and 1987 Volkswagen Transporter multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which Autostadt believes are substantially similar are 1986 and 1987 Volkswagen Vanagon multipurpose passenger vehicles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 1986 and 1987 Volkswagen Transporter multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

Autostadt submitted information with its petition intended to demonstrate that non-U.S. certified 1986 and 1987 Volkswagen Transporter multipurpose passenger vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1986 and 1987 Volkswagen Transporter multipurpose passenger vehicles are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 116 *Motor Vehicle Brake Fluids,* 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver from the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hub Caps,* 212 *Windshield Mounting,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Installation of an indicator lamp lens cover inscribed with the word ''brake'' in the instrument cluster in place of the one inscribed with the international ECE warning symbol; (b) installation of seat belt warning telltale; and (c) replacement or conversion of the speedometer to read in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of U.S.-model: (a) Headlamp assemblies; (b) taillamp assemblies; (c) turn signal lamp assemblies; and (d) front and rear side-mounted reflex reflectors.

Standard No. 111 *Rearview Mirrors:* Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* Installation of a supplemental warning buzzer system that includes a steering lock mounted micro-switch to meet the requirements of this standard.

Standard No. 115 *Vehicle Identification:* Installation of a vehicle identification plate near the left windshield post to meet the requirements of this standard.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* Installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* Installation of a supplemental seat belt warning buzzer and warning light system that includes a micro-switch mounted on the driver's-side seat belt latch to meet the requirements of this standard.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket 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.] It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 25, 2007.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E7–10481 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28263]

Notice of Receipt of Petition for Decision That Nonconforming 2006 Harley Davidson FX, FL, and XL Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2006 Harley Davidson FX, FL, and XL motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2006 Harley Davidson FX, FL, and XL motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 2, 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:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Milwaukee Motorcycle Imports, Inc. of Milwaukee, Wisconsin (''MMI'') (Registered Importer 99–192) has petitioned NHTSA to decide whether non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles are eligible for importation into the United States. The vehicles that MMI believes are substantially similar are 2006 Harley Davidson FX, FL, and XL motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

MMI submitted information with its petition intended to demonstrate that non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 122 *Motorcycle Brake Systems,* and 205 *Glazing Materials.*

The petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model components to meet the requirements of this standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* (a) Installation of a tire information placard; (b) inspection of all vehicles to ensure compliance with rim marking requirements, and replacement of rims that are not properly marked.

Standard No. 123 *Motorcycle Controls and Displays:* Installation of a

U.S.-model speedometer reading in miles per hour and a U.S.-model odometer reading in miles.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 25, 2007.

Claude H. Harri,

Director, Office of Vehicle, Safety Compliance.

[FR Doc. E7–10484 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–25544]

SS II of America, Inc.; Denial of Application for a Temporary Exemption From the Air Bag Requirements of FMVSS No. 208

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of application for a temporary exemption from provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*.

SUMMARY: This document denies the petition of SS II of America, Inc. (SS II) for a temporary exemption from the air bag requirements of FMVSS No. 208 for the SS II Shelby Series II from September 1, 2006 through July 31, 2008. The basis for the application was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.[1] We have determined that it would not be in the public interest or consistent with the Safety Act to grant an economic hardship exemption to permit this vehicle to be sold without air bags.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy Nakama, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366–2992; Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

SS II is a privately-held company that was incorporated in the State of Nevada in 2005 and began operations in January 2006. According to the petitioner, SS II acquired the tooling for the Shelby Series 1 vehicle under a licensing agreement from Shelby American Corporation, pursuant to which SS II has the right to produce 250 units of the Shelby Series II, a convertible sports car based upon the Shelby Series 1 design. The Shelby Series II would utilize the same chassis as the Shelby Series 1, but use modified exterior, interior, and powertrain components. SS II operates independently and is not affiliated with any other vehicle manufacturer.

In a supplement to its petition, SS II stated that Shelby American Inc. (another small volume manufacturer) produced Shelby Series 1 vehicles for sale only in model year 1999, and these vehicles were sold without an inflatable restraint system, because NHTSA granted that company a temporary exemption under Part 555 (*see* 64 FR 6736 (Feb. 10, 1999)). As a result, when SS II acquired the tooling for the Shelby Series 1, there was no air bag system, so development efforts in this area must, by necessity, start from a very fundamental level.

The petitioner argued that it tried in good faith, but could not bring the vehicle into compliance with the air bag requirements of FMVSS No. 208, and that it would incur substantial economic hardship if it cannot sell vehicles in the U.S. after September 1, 2006.

A. Eligibility. SS II is a U.S. company incorporated in Nevada in 2005. The company is a small volume manufacturer of specialty sports cars with approximately 30 employees. The organization obtained the rights to produce 250 ''Shelby'' vehicles under a licensing agreement from Shelby American Corporation. However, SS II is an independent automobile manufacturer; no vehicle manufacturer has an ownership interest in SS II, and the reverse is likewise true.

As a relatively new company, SS II has not produced any vehicles in prior years. According to its current forecasts, SS II anticipates the following production of Shelby Series II vehicles over calendar years (CY) 2006–2008: 86 vehicles in CY 2006; 120 vehicles in CY 2007, and 44 vehicles in CY 2008.

B. Requested exemption. SS II stated its intention to certify compliance of Shelby II vehicles with all applicable U.S. standards by July 31, 2008, including advanced air bags. The company envisions a later generation of Shelby III vehicles that would similarly comply with all applicable standards. Accordingly, SS II seeks an exemption from the requirements of S4.1.5.3 and S14 of FMVSS No. 208 from the date of approval of its petition to July 31, 2008.

II. SS II's Statement of Economic Hardship

The financial documents submitted to NHTSA by the petitioner indicate that the SS II Shelby Series II project will result in financial losses unless SS II obtains a temporary exemption. As discussed below, the company has invested significant resources to ensure that the Shelby Series II meets current U.S. standards, and it has plans for the development of an inflatable restraint system that meets the ''advanced air bag'' requirements of FMVSS No. 208.

As of the time of the application, SS II has invested over $1.4 million on the design, development, and homologation of the Shelby Series II project in order to have the vehicle meet U.S. standards—not including the air bag requirements which are the subject of the present petition for temporary exemption. The company has stated that it cannot hope to attain profitability if it incurs additional research and development expenses at this time.

SS II stated that costs associated with air bag engineering and development (including materials, tooling, testing, and test vehicles) have been estimated to be almost $4.2 million. In its petition, SS II reasoned that sales in the U.S. market must commence in order to finance this work and that the exemption is necessary to allow the company to ''bridge the gap'' until fully compliant vehicles can be funded, developed, tooled, and introduced.

If the exemption is denied, SS II projects a net loss of nearly $4.8 million over the period from calendar years 2006–2008. However, if the petition is granted, the company anticipates a net profit of over $1.7 million during that same period.[2] According to the

[1] To view the application, go to: *http://dms.dot.gov/search/searchFormSimple.cfm* and enter the docket number set fourth in the heading of this document.

[2] It should be noted that the two sets of financial projections supplied by SS II reflect slightly different timeframes. For the scenario in which the agency denies the company's requested exemption,

petitioner, if its exemption request is denied, the company would not have sufficient funds to sustain its air bag development program, and it would have to discontinue the Shelby Series II and subsequent vehicle programs for USA-compliant vehicles, thereby causing substantial economic hardship to the company.

III. SS II's Statement of Good Faith Efforts To Comply

As noted above, SS II has invested over $1.4 million on the design, development, and homologation of the Shelby Series II project in order to have the vehicle meet U.S. standards (other than the air bag provisions). Furthermore, to date, SS II has invested over $22,500 related to the installation of passenger and driver air bags in Shelby Series II vehicles. Since the company's start-up, it has been able to bring the vehicle into compliance with all applicable NHTSA regulations, except for the air bag provisions of FMVSS No. 208.

SS II considered the alternative of installing a standard air bag system (i.e., one that meets the requirements of FMVSS No. 208, except for the advanced air bag provision) in the Shelby Series II, but it was determined that a temporary exemption would still be necessary, because such an interim measure could not be implemented before the second quarter of 2008. Thus, in light of limited resources, the petitioner reasoned that it would be logical to move directly to the development of an air bag system that meets the advanced air bag requirements of FMVSS No. 208, without first seeking to develop a standard air bag system. According to SS II, installation of an advanced air bag system would require just a few more months in terms of development time at slightly higher cost. In contrast, SS II stated that it would have been cost-prohibitive for the company to develop and install a non-advanced air bag, which would then be followed by an advanced air bag system. According to the petitioner, the modifications to the vehicle to implement any inflatable restraint system are substantial, and not all the changes that would be appropriate for a non-advanced system would be suitable for an advanced system, so the company reasoned that it would be a waste of resources not to immediately pursue the advanced air bag technology already mandated under FMVSS No. 208.

The petitioner estimates that development of an advanced air bag system for the SS II would entail an average expenditure of $174,000 per month for the approximately 24 months it would take to develop and validate the system. According to its petition, even though air bags are beyond its current capabilities, SS II is nonetheless planning for the introduction of these devices.

The company expects to subcontract most of the air bag development project to an experienced outside company, and as noted above, current plans estimate a cost of nearly $4.2 million and a minimum lead time of 24 months for the advanced air bag project. SS II stated that the following engineering efforts are needed to equip the Shelby Series II with an advanced air bag system: (1) Tooling for both prototypes and production vehicles; (2) contractor engineering; (3) air bag system materials; (4) cost of test vehicles; (5) integration of air bag wiring; (6) radio frequency interference/electromagnetic compatibility (RFI/EMC) testing and engineering; (7) design and development of a new seat with sensors; (8) frontal barrier crash testing; and (9) system validation.

In terms of specific vehicle modifications necessary to install air bags in the Shelby Series II, the petitioner stated that the following changes are required: (1) Redesign of the dashboard exterior and supporting skeletal structure to add a passenger-side air bag; (2) redesign of the steering column to install a driver-side air bag; (3) installation of new seats with sensors; (4) integration of the air bag system's wiring harness with the vehicle's main wiring harness, and (5) installation of crash sensors and a properly calibrated restraint control module.

In short, SS II argued that, despite good faith efforts, limited resources prevent it from bringing the vehicle into compliance with all applicable requirements, and it is beyond the company's current capabilities to bring the vehicle into full compliance until such time as additional resources become available as a result of U.S. sales. With funding from sale of the current generation of Shelby Series II vehicles, the company expects that additional development efforts could commence as would permit production of a fully compliant vehicle in July 2008.

IV. SS II's Statement of Public Interest

The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and would not have a significant adverse impact on safety. Specifically, SS II emphasized that the Shelby Series II will comply with all applicable FMVSSs, except for air bags.

The company asserted that granting the exemption will benefit U.S. employment, companies, and citizens, because Shelby Series II vehicles will be produced in the U.S., will have major components (e.g., chassis, body, and engine) produced by U.S. companies, and will be sold and serviced through U.S. dealers. SS II also argued that denial of the exemption request would have an adverse impact on consumer choice, suggesting that there is domestic demand for Shelby Series II vehicles.

As an additional basis for showing that its requested exemption would be in the public interest, SS II stated that Shelby Series II vehicles have utilized advanced composite technology and lightweight materials, which provide both strength and durability. According to SS II, this reduced weight translates into improved emissions and fuel efficiency.

V. Notice of Receipt of Petition and Public Response

On August 28, 2006 (71 FR 50977) (Docket No. NHTSA–2006–2554), NHTSA published a Notice of Receipt of Application for a Temporary Exemption From the Air Bag Requirements of FMVSS No. 208, and asked for public comment. NHTSA received no comments in response to this notice.

VI. Agency Decision

NHTSA has decided to deny SS II's petition for the SS II Shelby Series II. As discussed below, we have concluded that it would not be in the public interest to grant an economic hardship exemption to permit this vehicle to be sold without air bags.

In discussing this decision, we begin by noting that, in order to grant an economic hardship petition, the agency must, under 49 U.S.C. 30113(b), find both that compliance with a standard would cause substantial economic hardship and that the manufacturer has tried to comply with the standard in good faith, as well as that the exemption is in the public interest and consistent with the Safety Act.[3] The purpose of the Safety Act is to reduce traffic accidents

figures are provided for January 2006 to December 2008. However, for the scenario in which the agency grants the company's requested exemption, figures are provided for January 2006 to June 2008. The truncated financial figures under the ''grant'' scenario reflect the fact that if the petition is granted, SS II expects to have produced all 250 Shelby Series II vehicles permitted under its licensing agreement by mid-2008.

[3] The Safety Act is codified as Title 49, United States Code, Chapter 301.

and deaths resulting from traffic accidents.

In recent years, the agency has received a number of economic hardship petitions concerning requirements for air bags. Most of the petitions have been limited to requirements for advanced air bags, which did not become effective for small volume manufacturers until September 1, 2006. A very small number of petitioners have requested that vehicles be permitted to be manufactured and sold without air bags.

We are concerned about the potential safety implication of any temporary exemptions that may be granted by this agency. However, in considering whether a requested economic hardship exemption is in the public interest and consistent with the Safety Act, we believe it is important to distinguish between petitions requesting exemptions from requirements for advanced air bags and ones requesting exemptions to permit vehicles to be manufactured and sold without air bags.

There are significant differences between these two types of petitions. One difference relates to the length of the time that the relevant requirements have been in effect, and related technical difficulties in bringing vehicles into compliance with the requirements. The other difference relates to safety benefits.

All passenger cars manufactured on or after September 1, 1997 have been required to provide air bags at the driver and right front passenger positions. Thus, the requirements for ''basic'' air bags are longstanding, and a number of small volume manufacturers have found ways to meet the requirements.

By contrast, the requirements for advanced air bags did not become effective for small volume manufacturers until September 1, 2006. Because the new advanced air bag requirements were challenging, major air bag suppliers concentrated their efforts on working with large volume manufacturers, and thus, until recently, small volume manufacturers had limited access to advanced air bag technology.

Frontal air bags for drivers and right front passengers have great net benefits. NHTSA estimates that they saved 19,659 lives from 1987 through the end of 2005.[4] Air bags reduce overall fatality risk in purely frontal crashes by 29 percent. They reduce overall fatality risk by 12 percent for drivers of passenger cars, and by 14 percent for right front passengers of passenger cars.[5]

Given the large benefits of frontal air bags, the number of years that the requirements have been in effect and the fact that a number of small volume manufacturers have been able to meet the requirements for ''basic'' air bags, we have determined that it is generally not in the public interest or consistent with the Safety Act to grant new economic hardship exemptions to permit light vehicles to be sold without air bags. We note that while the agency has granted a small number of such exemptions in the past, we believe it is more difficult with the passage of time, to justify granting such petitions, since air bag technology has been widely available and incorporated into vehicle designs for over twenty years.

As for the SS II Shelby Series II, we note that, as indicated earlier, SS II began operations in January 2006. It acquired the tooling for the Shelby Series 1 vehicle under a licensing agreement from Shelby American Corporation, pursuant to which SS II has the right to produce a convertible sports car based upon the Shelby Series 1 design. The Shelby Series II would utilize the same chassis as the Shelby Series 1, but use modified exterior, interior, and powertrain components. The SS II Shelby Series II is in essence a modified version of an older vehicle that was designed without air bags. Given the safety benefits of frontal air bags, we have determined that it would not be in the public interest or consistent with the Safety Act to grant an economic hardship exemption to permit the manufacture and sale of this vehicle without air bags.

Since we have determined that the requested exemption is not in the public interest or consistent with the Safety Act, it is not necessary address the issues of economic hardship or whether or not the manufacturer has tried to comply with the standard in good faith.

Accordingly, SS II's petition for a temporary exemption is denied.

Issued on: May 24, 2007.

Nicole R. Nason,

Administrator.

[FR Doc. E7–10501 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–59–P

[4] Traffic Safety Facts—2005 Data—Occupant Protection, NHTSA Report No. DOT HS 810 691, Washington, 2006.

[5] Kahane, C.J., Lives Saved by the Federal Motor Vehicle Safety Standards and Other Vehicle Safety Technologies, 1960–2002, NHTSA Technical Report No. DOT HS 809 833, Washington, 2004, pp. 108–115.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28262]

Notice of Receipt of Petition for Decision That Nonconforming 2005 Honda CR–V Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2005 Honda CR–V multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2005 Honda CR–V multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 2, 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:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a

motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. (WETL) of Houston, TX (Registered Importer 90–005) has petitioned NHTSA to decide whether nonconforming 2005 Honda CR–V multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 2005 Honda CR–V multipurpose passenger vehicles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2005 Honda CR–V multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 2005 Honda CR–V multipurpose passenger vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2005 Honda CR–V multipurpose passenger vehicles are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 113 *Hood Latch System*, 114 *Theft Protection*, 116 *Motor Vehicle Brake Fluids*, 118 *Power-Operated Window, Partition, and Roof Panel Systems*, 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Installation of a U.S.-model instrument cluster, Engine Control Unit and associated U.S.-model software.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model front and rear side-mounted marker lamps.

Standard No. 111 *Rearview Mirrors:* Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* Installation of a tire information placard.

Standard No. 201 *Occupant Protection in Interior Impact:* Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model components to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* (a) Inspection of all vehicles and replacement of any non U.S.-model seat belts, knee bolsters, air bag control units, and air bags with U.S.-model components on vehicles that are not already so equipped; and (b) installation of U.S. version software to ensure that the seat belt warning system meets the requirements of this standard.

Standard No. 209 *Seat Belt Assemblies:* Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model components to meet the requirements of this standard.

Standard No. 225 *Child Restraint Anchorage Systems:* Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model components to meet the requirements of this standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket 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.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 25, 2007.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E7–10483 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28264]

Notice of Receipt of Petition for Decision That Nonconforming 2003 Kawasaki VN1500–P1/P2 Series Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2003 Kawasaki VN1500–P1/P2 series motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2003 Kawasaki VN1500–P1/P2 series motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are

capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 2, 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:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. (WETL) of Houston, TX (Registered Importer 90–005) has petitioned NHTSA to decide whether non-U.S. certified 2003 Kawasaki VN1500–P1/P2 series motorcycles are eligible for importation into the United States. The vehicles that WETL believes are substantially similar are 2003 Kawasaki VN1500–P1/P2 series motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2003 Kawasaki VN1500–P1/P2 series motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 2003 Kawasaki VN1500–P1/P2 series motorcycles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2003 Kawasaki VN1500–P1/P2 series motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 122 *Motorcycle Brake Systems,* and 205 *Glazing Materials*.

The petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Inspection of all vehicles and replacement of the following with U.S.-model components on vehicles not already so equipped: (a) Headlamps; (b) front and rear turn signal lamps; and (c) tail lamp assembly.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* (a) Installation of a tire information placard; (b) inspection of all vehicles to ensure compliance with rim marking requirements; and (c) replacement of rims that are not properly marked.

Standard No. 123 *Motorcycle Controls and Displays:* Installation of a U.S.-model speedometer reading in miles per hour and a U.S.-model odometer reading in miles.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 25, 2007.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E7–10487 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket: PHMSA–98–4957]

Request for Public Comments and Office of Management and Budget Approval of an Existing Information Collection (2137–0596)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that PHMSA forwarded an Information Collection Request to the Office of Management and Budget (OMB) for an extension of the currently approved collection for National Pipeline Mapping System (NPMS) data reporting. On March 23, 2007, PHMSA published a **Federal Register** notice soliciting comments on this information collection. No comments were received. The purpose of this notice is to allow the public an additional 30 days to submit comments.

DATES: Submit comments on or before July 2, 2007.

ADDRESSES: Send comments directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Department of Transportation, 725 17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert Smith at (202) 366–3814, or by e-mail at *robert.smith@dot.gov.*

SUPPLEMENTARY INFORMATION: The Federal Pipeline Safety Act (49 U.S.C. 60132) requires operators of pipeline facilities (except distribution lines and gathering lines) to submit geospatial data appropriate for use in PHMSA's NPMS. Operators must submit data on an annual basis in accordance with

guidelines detailed in the NPMS's operator standards document (*https://www.npms.phmsa.dot.gov/Documents/2004_Standards.pdf*). PHMSA uses the NPMS as a tool to support various regulatory programs, pipeline inspections, and authorized external customers. Any changes to the data over the previous year submitted to the NPMS allow PHMSA to maintain and improve the accuracy of the data.

Pursuant to 44 U.S.C. § 3506(c)(2)(A) of the PRA, PHMSA published a notice with request for comments in the **Federal Register** on March 23, 2007 (72 FR 13858). No comments were received. PHMSA is now forwarding the information collection request to the OMB and providing an additional 30 days for comments. The term ''information collection'' includes all work related to the preparing and disseminating information in accordance with the recordkeeping requirements. PHMSA invites comments on whether the renewal of the existing NPMS information collection is necessary for the proper performance of the functions of the DOT. The comments may address (1) whether the information will have practical utility; (2) the accuracy of the DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Type of Information Collection Request: Renewal of Existing Collection.

Title of Information Collection: National Pipeline Mapping System.

Respondents: 894 pipeline operators mapping 420,117 pipeline miles.

Estimated Total Annual Burden on Respondents: 14,004 hours.

Issued in Washington, DC on May 11, 2007.

Florence L. Hamn,

Director of Regulations, Office of Pipeline Safety.

[FR Doc. E7–10443 Filed 5–30–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35025]

Napa-Platte Regional Railroad Authority—Lease and Operation Exemption—Dakota Short Line Corp.

Napa-Platte Regional Railroad Authority (NPRRA), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and to operate a line of railroad from the State of South Dakota extending from milepost 0.0, near Napa, SD, to milepost 13.4+/−, near Tabor, SD, in Bon Homme and Yankton Counties, SD (Napa-Tabor line). NPRRA would provide common carrier rail operations over the Napa-Tabor line through a third-party operator or would sub-lease the line to a third-party rail carrier. NPRRA states that, as a result of this transaction, and based on the projected revenues for the line, it expects to become and remain a Class III rail carrier.

This transaction is related to the concurrently filed notice for a modified certificate of public convenience and necessity in STB Finance Docket No. 35026, *Napa-Platte Regional Railroad Authority—Modified Rail Certificate—Between Tabor and Ravinia, SD,* wherein NPPRA seeks to extend the term of its operational authority over a connecting line segment between Tabor and Ravinia, SD (Tabor-Ravinia line) until the sale of both the Napa-Tabor line and the Tabor-Ravinia line to Wagner Native Energy, LLC (Wagner) has been completed.[1]

NPRRA certifies that the projected annual revenue as a result of this transaction will not exceed $5 million. The earliest this transaction can be consummated is June 14, 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 does not automatically stay the transaction. Petitions for stay must be filed no later than June 7, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35025, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kenneth Cotton, Wipf & Cotton Law Offices LLC, 107 South Main Street, Wagner, SD 57380.

Board decisions and notices are available on its Web site at *WWW.STB.DOT.GOV.*

Decided: May 23, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10324 Filed 5–30–07; 8:45 am]

BILLING CODE 4915–01–P

[1] The Napa-Tabor line is a segment of a larger line leased by NPRRA from the State of South Dakota. The entire line extends from milepost 0.0 in Napa County, SD, to milepost 83.3 in Platte, SD, and consists of three segments (the Napa-Tabor line, the Tabor-Ravinia line, from milepost 13.4+/− to milepost 54.4, and the Ravinia-Platte line, from milepost 54.4 to milepost 83.3). According to NPRRA, Wagner and the State of South Dakota are negotiating for the sale to Wagner of the Napa-Tabor line and the Tabor-Ravinia line. Upon consummation of that sale transaction, Wagner would, according to NPRRA, operate over the segments as a common carrier through the use of a third-party rail carrier.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 459X)]

BNSF Railway Company—Abandonment Exemption—in King County, WA

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 0.20–mile line of railroad extending between Engineering Station 73 + 58 and Engineering Station 84 + 26 in Seattle, King County, WA. The line traverses United States Postal Service Zip Code 98134.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 30,

2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 11, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 20, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 5, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by May 31, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: May 24, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10419 Filed 5–30–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 288X)]

Norfolk Southern Railway Company—Abandonment Exemption-in Bergen County, NJ

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.40-mile line of railroad between milepost UQ 8.80 and milepost UQ 10.20, in Rutherford, Bergen County, NJ.[1] The line traverses United States Postal Service Zip Code 07070, and includes the former stations of Rutherford Jct. and Carlton Hill.

NSR has certified that: (1) No traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 30, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 11, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 20, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 5, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

[1] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Surface Transportation Board (Board) at least 50 days before the abandonment or discontinuance is to be consummated. NSR initially indicated in its notice of exemption a proposed consummation date of June 29, 2007, but because the verified notice was filed on May 11, 2007, consummation may not take place prior to June 30, 2007. NSR has been informed by a Board staff member that consummation may not take place until June 30, 2007.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,300. *See* 49 CFR 1002.2(f)(25).

NSR's filing of a notice of consummation by May 31, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: May 24, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10325 Filed 5–30–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund: Open Meeting of the Community Development Advisory Board

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the Community Development Advisory Board (the Advisory Board), which provides advice to the Director of the Community Development Financial Institutions Fund (the Fund).

DATES: The next meeting of the Advisory Board will be held from 12:30 p.m. to 4:30 p.m. on June 7, 2007.

ADDRESSES: The Advisory Board meeting will be held in the Teutonia and Cosmopolitan Conference Rooms at the International House Hotel located at 221 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: The Office of Public and Legislative Affairs of the Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, (202) 622–8042 (this is not a toll free number). Other information regarding the Fund and its programs may be obtained through the Fund's Web site at *http://www.cdfifund.gov*.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(d)) established the Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the Fund (who has been delegated the authority to administer the Fund) on the policies regarding the activities of the Fund. The Advisory Board shall not advise the Fund on the granting or denial of any particular application for monetary or non-monetary awards. The Advisory Board shall meet at least annually.

It has been determined that this document is not a major rule as defined in Executive Order 12291 and therefore regulatory impact analysis is not required. In addition, this document does not constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The next meeting of the Advisory Board, all of which will be open to the public, will be held in the Teutonia and Cosmopolitan Conference Rooms at the International House Hotel located at 221 Camp Street, New Orleans, Louisiana 70130, from 12:30 p.m. to 4:30 p.m. on June 7, 2007. The room will accommodate up to 20 members of the public. Seats are available to members of the public on a first-come, first-served basis.

Participation in the discussions at the meeting will be limited to Advisory Board members, Department of the Treasury staff, and certain invited guests. Because the meeting will be held in a secured facility, members of the public who desire to attend the meeting must contact the Fund's Office of Public and Legislative Affairs by 5 p.m. ET on Friday, June 1, 2007 by calling (202) 622–8042 (this is not a toll free number) or via e-mail at *luechtb@cdfi.treas.gov*, to inform the Fund of your desire to attend the meeting and to provide the information that will be required to facilitate your entry to the facility.

Anyone who would like to have the Advisory Board consider a written statement must submit it to the Fund's Office of Public and Legislative Affairs of the Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, by 5 p.m. ET on Tuesday, June 5, 2007.

The Advisory Board meeting will include a report from the Director on the activities of the Fund since the last Advisory Board meeting, as well as policy, programmatic, fiscal and legislative initiatives for the years 2007 and 2008.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: May 25, 2007.

Linda G. Davenport,

Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.

[FR Doc. E7–10507 Filed 5–30–07; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Deposits

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before July 2, 2007.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725–17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov*, (202) 906–6467, or facsimile number (202) 906–6518, Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. You may obtain a copy of the submission to OMB at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Deposits.

OMB Number: 1550–0092.

Form Number: N/A.

Regulation requirement: 12 CFR 557.20, 230.3, 230.4, 230.5, and 230.6.

Description: Part 557 of Title 12 of the Code of Federal Regulations relies on the disclosure requirements applicable to savings associations under the Federal Reserve Board's Regulation DD (12 CFR Part 230). OTS needs the information required by Regulation DD to supervise savings associations and develop regulatory policy.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 840.

Estimated Number of Responses: 87,152.

Estimated Frequency of Response: On occasion.

Estimated Burden Hours per Response: 1 hour 8 minutes.

Estimated Total Burden: 1,246,840 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Desk Officer for OTS, Fax: (202) 395–6974, U.S. Office of Management and Budget, 725–17th Street, NW., Room 10235, Washington, DC 20503.

Dated: May 24, 2007.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E7–10399 Filed 5–30–07; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Securities Offering Disclosures

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before July 2, 2007.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov*, (202) 906–6467, or facsimile number (202) 906–6518, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Securities Offering Disclosures.

OMB Number: 1550–0035.

Form Number: SEC Forms S–1, S–3, S–4, SB–1, SB–2, and 144; OTS Form G–12.

Regulation requirement: 12 CFR Part 563g.

Description: OTS collects information for disclosure in securities offerings by savings associations related directly to U.S. Securities and Exchange Commission requirements for providing information to potential securities purchasers.

Type of Review: Renewal.

Affected Public: Savings associations.

Estimated Number of Respondents: 3.

Estimated Frequency of Response: On occasion.

Estimated Burden Hours per Response: 39 hours.

Estimated Total Burden: 735 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Desk Officer for OTS, Fax: (202) 395–6974, U.S. Office of Management and Budget, 725–17th Street, NW., Room 10235, Washington, DC 20503.

Dated: May 24, 2007.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E7–10400 Filed 5–30–07; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Thursday,
May 31, 2007

Part II

Environmental Protection Agency

40 CFR Parts 52 and 81

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment of the 8-Hour Ozone Standard and Approval of Base Year Emission Inventories; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2006–0474; FRL–8317–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment of the 8-Hour Ozone Standard and Approval of Base Year Emission Inventories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 12, 2006, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of a redesignation of Lake and Porter Counties to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) and of an ozone maintenance plan for this area as a revision to the Indiana State Implementation Plan (SIP). EPA is proposing to determine that the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) 8-hour ozone nonattainment area, which includes Lake and Porter Counties, has attained the 8-hour ozone NAAQS. EPA is proposing to approve Indiana's ozone maintenance plan for Lake and Porter Counties as a revision to the SIP. EPA is proposing to approve Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Motor Vehicle Emission Budgets (MVEBs) for Lake and Porter Counties as supported by the ozone maintenance plan. EPA is proposing to approve Indiana's 2002 base year VOC and NO_X emission inventories for Lake and Porter Counties. EPA is proposing to approve into the Indiana SIP the VOC and NO_X periodic emission inventories for 1999, 2002, and 2004. Finally, EPA is proposing to approve the redesignation of Lake and Porter Counties to attainment of the 8-hour ozone NAAQS.

DATES: Comments must be received on or before July 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0474, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of operation are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–0474. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hardcopy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hardcopy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. It is recommended that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this proposed rule whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. This supplementary information section is arranged as follows:

I. What Actions Is EPA Proposing To Take?
II. What Is the Background for These Actions?
III. What Is the Impact of a December 22, 2006 United States Court of Appeals Decision Regarding EPA's Phase 1 Ozone Implementation Rule on This Proposed Rule?
  A. Requirements Under the 8-Hour Ozone Standard
  B. Requirements Under the 1-Hour Ozone Standard
IV. What Are the Criteria for Redesignations to Attainment of the 8-Hour Ozone NAAQS?
V. What Are EPA's Analyses of the State's Redesignation Request and Maintenance Plan and What Are the Bases for EPA's Proposed Actions?
  A. Have Lake and Porter Counties and the Entire Chicago-Gary-Lake County, IL-IN Nonattainment Area Attained the 8-Hour Ozone NAAQS and 1-Hour Ozone NAAQS?
  1. Attainment of the 8-Hour Ozone NAAQS
  2. Attainment of the 1-Hour Ozone NAAQS
  B. Has the State of Indiana Committed To Maintain the Ozone Monitoring System in Lake and Porter Counties?
  C. Have Lake and Porter Counties and the State of Indiana Met All of the Requirements of Section 110 and Part D of the CAA Applicable for Purposes of Redesignation, and Do Lake and Porter Counties Have a Fully Approved SIP Under Section 110(k) of the CAA for Purposes of Redesignation to Attainment?
  1. Lake and Porter Counties Have Met All Requirements of Section 110 and Part D of the CAA Applicable for Purposes of Redesignation for the 8-Hour NAAQS
  a. Section 110 and General SIP Requirements
  b. Part D SIP Requirements Under the 8-Hour Ozone Standard
  2. Lake and Porter Counties Have a Fully Approved SIP Under Section 110(k) of the CAA

D. Have Lake and Porter Counties Met the Part D Nonattainment Area and Section 110 Requirements Under the 1-Hour Ozone Standard?
E. Are the Air Quality Improvements in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN Nonattainment Area Due to Permanent and Enforceable Emission Reductions Resulting From the Implementation of the Indiana SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Emission Reductions?
F. Do Lake and Porter Counties Have a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA?
1. What Is Required in an Ozone Maintenance Plan?
2. What Are the Attainment Emission Inventories for Lake and Porter Counties?
a. Point Sources
b. Area Sources
c. On-Road Mobile Sources
d. Non-Road Mobile Sources
3. Has the State Demonstrated Maintenance of the Ozone Standard in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN Ozone Nonattainment Area?
4. What Is the Contingency Plan for Lake and Porter Counties?
a. Verification of Continued Attainment
b. Contingency Plan
5. Has the State Committed To Update the Ozone Maintenance Plan in Eight Years After the Redesignation of Lake and Porter Counties to Attainment of the 8-Hour Ozone NAAQS?
VI. Has the State Adopted Acceptable MVEBs for the End Year of the Ozone Maintenance Period Which Can Be Used To Support Transportation Conformity Determinations?
A. How Are the MVEBs Developed and What Are the MVEBs for Lake and Porter Counties?
B. Are the MVEBs Approvable?
VII. Modeled Attainment of the Ozone Standard
A. Regional Ozone Modeling Results
B. Temperature—Ozone Exceedance Frequency Study
VIII. Review of Indiana's 2002 Base Year Emissions Submittal
IX. What Are EPA's Proposed Actions?
X. Statutory and Executive Order Reviews

I. What Actions Is EPA Proposing To Take?

We are proposing to take several related actions for Lake and Porter Counties, Indiana. First, we are proposing to determine that the Chicago-Gary-Lake County, IL-IN ozone nonattainment area, including Lake and Porter Counties in Indiana, has attained the 8-hour ozone NAAQS.

Second, we are proposing to approve Indiana's request to redesignate the Indiana portion of the Chicago-Gary-Lake County, IL-IN ozone nonattainment area (Lake and Porter Counties) to attainment of the 8-hour ozone NAAQS. We have determined that the State of Indiana and Lake and Porter Counties have met the CAA requirements for such a redesignation under section 107(d)(3)(E). EPA is proposing in this notice to approve Indiana's 2002 base year VOC and NO_X emission inventories for Lake and Porter Counties as meeting the base year emissions inventory requirements of the CAA and as a revision to the Indiana SIP. EPA is also proposing to approve into the Indiana SIP the VOC and NO_X periodic inventories for 1999, 2002 and 2004, pursuant to section 182(a)(3)(A) of the CAA under the 1-hour standard.

Third, we are proposing to approve Indiana's ozone maintenance plan for Lake and Porter Counties as a revision of the Indiana SIP. The maintenance plan, which meets the requirements of section 175A of the CAA, is designed to keep Lake and Porter Counties and the Chicago-Gary-Lake County ozone nonattainment area in attainment of the 8-hour ozone NAAQS through 2020. As supported by and consistent with the ozone maintenance plan, we are also proposing to approve the 2010 and 2020 VOC and NO_X MVEBs for Lake and Porter Counties for transportation conformity determination purposes.

Finally, in response to a December 22, 2006, decision of the United States Court of Appeals vacating EPA's Phase 1 ozone implementation rule, we are proposing to find that, if the 1-hour ozone standard is deemed to be reinstated, Lake and Porter Counties would also qualify for a redesignation to attainment of the 1-hour ozone standard.

II. What Is the Background for These Actions?

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS (62 FR 38856) of 0.08 parts per million parts of air (0.08 ppm) (80 parts per billion (ppb)).[1] This 8-hour ozone standard replaced a prior 1-hour ozone NAAQS, which was promulgated on February 8, 1979 (44 FR 8202) and which EPA revoked on June 15, 2005 (69 FR 23858).

Ground-level ozone is not emitted directly by emission sources. Rather, emitted NO_X and VOC react in the presence of sunlight to form ground-level ozone along with other secondary compounds. NO_X and VOC are referred to as ''ozone precursors.'' [2] Control of ground-level ozone concentrations is achieved through controlling VOC and NO_X emissions.

Section 107 of the CAA required EPA to designate as nonattainment any area that violated the 8-hour ozone NAAQS. The **Federal Register** notice promulgating the 8-hour ozone designations and classifications was published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas. Both are found in title I, part D of the CAA. Subpart 1 contains general, less prescriptive requirements for all nonattainment areas of pollutants governed by NAAQS. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA.

In the April 30, 2004 designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment (''basic'' nonattainment) and subpart 2 nonattainment (''classified'' nonattainment). EPA based this division on the areas' 8-hour ozone design values (i.e., on the three-year averages of the annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case monitoring sites in the designated areas) and on their 1-hour ozone design values (i.e., on the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the designated areas).[3] EPA classified 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or exceeding 121 ppb as subpart 2, classified nonattainment areas. EPA classified all other 8-hour nonattainment areas as subpart 1, basic nonattainment areas. The basis for area classification was defined in a separate April 30, 2004 final rule (the Phase 1 implementation rule) (69 FR 23951).[4]

[1] This standard is violated in an area when any ozone monitor in the area records 8-hour ozone concentrations with a three-year average of the annual fourth-highest daily maximum 8-hour ozone concentrations equaling or exceeding 85 ppb. See 40 CFR 50.10.

[2] Carbon Monoxide (CO) is also a minor precursor in the formation of ozone.

[3] The 8-hour ozone design value and the 1-hour ozone design value for each area were not necessarily recorded at the same monitoring site. The worst-case monitoring site for each ozone concentration averaging time was considered for each area.

[4] It should be noted that 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. 2006). EPA explains its views of the potential impact of this decision in section III, below.

Emission control requirements for classified nonattainment areas are linked to area classifications. Areas with more serious ozone pollution problems are subject to more prescribed requirements and later attainment deadlines. The prescribed emission control requirements are designed to bring areas into attainment by their specified attainment dates.

In the April 30, 2004 ozone designation/classification rulemaking, EPA designated Lake and Porter Counties, as part of the Chicago-Gary-Lake County, IL-IN area, as a subpart 2 moderate nonattainment area for the 8-hour ozone NAAQS. This designation was based on ozone data collected during the 2001–2003 period.

On September 12, 2006, the State of Indiana requested redesignation of Lake and Porter Counties to attainment of the 8-hour ozone NAAQS. This redesignation request was submitted by the State subsequent to conducting a public review process for the redesignation request and ozone maintenance plan and subsequent to the State's adoption of the ozone maintenance plan.

III. What Is the Impact of a December 22, 2006 United States Court of Appeals Decision Regarding EPA's Phase 1 Ozone Implementation Rule on This Proposed Rule?

On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit (the Court) vacated EPA's Phase 1 implementation rule (Phase 1 Rule) for the 8-hour ozone standard (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). The Court held that certain provisions of EPA's Phase 1 Rule were inconsistent with the requirements of the CAA. The Court rejected EPA's reasons for implementing the 8-hour ozone standard in nonattainment areas under subpart 1 in lieu of subpart 2 of Title I, part D of the CAA. The Court also held that EPA improperly failed to retain four measures required for 1-hour ozone 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 ozone nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour ozone NAAQS, or failing to attain that NAAQS; and, (4) conformity requirements for certain types of Federal actions. The Court upheld EPA's authority to revoke the 1-hour ozone standard provided that there were adequate anti-backsliding provisions.

This section sets forth EPA's views on the potential effect of the Court's ruling 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 on any petition for rehearing that has been filed, imposes no impediment to moving forward with redesignation of this area to attainment, because in either circumstance redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

A. Requirements Under the 8-Hour Ozone Standard

With respect to the 8-hour ozone standard, the Chicago-Gary-Lake County, IL-IN ozone nonattainment area, which includes Lake and Porter Counties, is classified as moderate nonattainment under subpart 2. We do not believe that any part of the Court's opinion would require that this subpart 2 classification be changed upon remand to EPA. However, even assuming for present purposes that the Chicago-Gary-Lake County, IL-IN area would become subject to a different classification scheme created in a future rule responding to the Court's decision, that would not prevent EPA from finalizing the redesignation for this area. For the reasons set forth below, we believe that any additional requirements that might apply based on a different classification would not be applicable for purposes of evaluating the 8-hour ozone redesignation request now before us. This belief is based on: (1) EPA's longstanding policy of evaluating redesignation requests in accordance only with the requirements due at the time the redesignation 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 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 CAA, to qualify for redesignation, a state requesting a redesignation to attainment must meet only the relevant SIP requirements that came due for the subject area prior to the submittal of a complete redesignation request. See the 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 the September 17, 1993 Shapiro memorandum (''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, Air and Radiation), 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). At the time the Lake and Porter County redesignation request was submitted, September 12, 2006, the Chicago-Gary-Lake County, IL-IN area was not classified under subpart 1 and no subpart 1 requirements were applicable for purposes of redesignation.

Second, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the redesignation 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 timeframe, 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 under subpart 1 that were not in effect at the time it submitted its redesignation request, but that might apply in the future.

B. Requirements Under the 1-Hour Ozone Standard

In its December 22, 2006 decision in *South Coast Air Quality Management Dist.* v. *EPA*, 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 Chicago-Gary-Lake County, IL-IN area has attained the 1-hour ozone standard and that the State of Indiana and Lake and Porter Counties have met all of the requirements applicable for redesignation under the 1-hour ozone standard that would apply even if the 1-hour ozone 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 redesignation of Lake and Porter Counties to attainment based on the status of the 1-hour ozone standard. Furthermore, if the 1-hour ozone standard is deemed to be reinstated, EPA would construe the State's redesignation request under the 8-hour ozone standard as also constituting a redesignation request under the 1-hour ozone standard. EPA proposes that, if the 1-hour standard is deemed to be reinstated, EPA would redesignate Lake and Porter Counties to attainment of the 1-hour ozone standard because EPA believes that the area has satisfied all of the 1-hour requirements for such redesignation, as explained in the analysis below. Further, even if the Court's decision were modified based on any petition for rehearing that has been filed such that the ultimate decision requires something less than compliance with all applicable 1-hour ozone requirements, this would not pose an impediment to redesignating the area to attainment of the 1-hour ozone standard. Since the area meets all current 1-hour ozone requirements as explained below, it would certainly meet any lesser requirements and, thus similarly, redesignation could proceed.

IV. What Are the Criteria for Redesignation to Attainment of the 8-Hour Ozone NAAQS?

The CAA provides the basic requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA authorizes redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable state implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and, (5) the state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA.

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). Two significant policy guidance documents affecting the review of ozone redesignation requests are the following: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the September 4, 1992 Calcagni memorandum); 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 (the May 10, 1995 Clean Data Policy memorandum). For additional policy guidance used in the review of ozone redesignation requests, see our proposed rule for the redesignation of the Evansville, Indiana ozone nonattainment area at 70 FR 53606 (September 9, 2005).

V. What Are EPA's Analyses of the State's Redesignation Request and Maintenance Plan and What Are the Bases for EPA's Proposed Action?

EPA is proposing to: (1) Determine that Lake and Porter Counties and the Chicago-Gary-Lake County, IL-IN area have attained the 8-hour ozone standard and the 1-hour ozone standard; (2) approve the ozone maintenance plan for Lake and Porter Counties and the VOC and NO_X MVEBs supported by the maintenance plan; and, (3) approve the redesignation of Lake and Porter Counties to attainment of the 8-hour ozone NAAQS and to attainment of the 1-hour ozone NAAQS, if it is deemed to be reinstated. The bases for our proposed determination and approvals follow.

A. Have Lake and Porter Counties and the Entire Chicago-Gary-Lake County, IL-IN Nonattainment Area Attained the 8-Hour Ozone NAAQS and the 1-Hour Ozone NAAQS?

1. Attainment of 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 of the NAAQS, as determined in accordance with 40 CFR 50.10 and appendix I, based on the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at all ozone monitoring sites in the area and at any monitor used to calculate its design value. To attain this standard, the average of the annual fourth-high daily maximum 8-hour average ozone concentrations measured and recorded at each monitor (the monitoring site's ozone design value) within the area and used to calculate its design value, over the most recent three-year period must not exceed the ozone standard. Based on an ozone data rounding convention described in 40 CFR 50, appendix I, the 8-hour ozone standard is attained if the area's ozone design value [5] is 0.084 ppm (84 ppb) or less. The data must be collected and quality-assured in accordance with 40 CFR 58, and is recorded in EPA's Air Quality System (AQS). The ozone monitors generally should have remained at the same locations for the duration of the monitoring period required to demonstrate attainment (for three years or more). The data supporting attainment of the standard must be complete in accordance with 40 CFR 50, appendix I.

At the time of the September 12, 2006 ozone redesignation request, preliminary 8-hour ozone monitoring data for Lake and Porter Counties and for the Illinois portion of the Chicago-Gary-Lake County, IL-IN nonattainment area showed that the area was attaining the standard for 2004–2006, and that the 2006 4th high 8-hour daily average concentration was 0.081 ppm. Since the submittal of the redesignation request, Indiana and other States in the Lake Michigan area have submitted quality-assured data for 2006 to the AQS. Table 1 summarizes the annual fourth-high 8-hour ozone concentrations during the

[5] The worst-case monitoring site-specific ozone design value in the area and in its nearby downwind environs.

period of 2004–2006, the most recent three years of available quality-assured ozone data, for all monitors in the Chicago-Gary-Lake County, IL-IN area and for the Chiwaukee Prairie monitoring site in Wisconsin, the critical ozone design value site for the Chicago-Gary-Lake County, IL-IN ozone nonattainment area.

TABLE 1.—ANNUAL FOURTH-HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS IN PARTS PER MILLION (PPM) AND THREE-YEAR AVERAGES

Site ID	County	Address/site	Year	Percent observations ozone season	Fourth-high daily maximum concentration	Three-year average
INDIANA MONITORING SITES						
18–089–002	Lake	Gary	2004	100	0.064	NA
		Gary	2005	96	0.089	NA
		Gary	2006	98	0.073	0.075
18–089–2008	Lake	Hammond	2004	100	0.067	NA
		Hammond	2005	99	0.087	NA
		Hammond	2006	100	0.075	0.076
18–127–0024	Porter	Ogden Dunes	2004	100	0.069	NA
		Ogden Dunes	2005	99	0.090	NA
		Ogden Dunes	2006	100	0.070	0.076
18–127–0026	Porter	Valparaiso	2004	100	0.072	NA
		Valparaiso	2005	100	0.078	NA
		Valparaiso	2006	99	0.071	0.073
ILLINOIS MONITORING SITES						
17–031–0001	Cook	Alsip	2004	100	0.065	NA
		Alsip	2005	100	0.084	NA
		Alsip	2006	100	0.078	0.075
17–031–0032	Cook	Chicago-Cheltenham	2004	100	0.067	NA
		Chicago-Cheltenham	2005	100	0.076	NA
		Chicago-Cheltenham	2006	100	0.075	0.072
17–031–0042	Cook	Wacker at Adams	2004	64	0.069	NA
		Wacker at Adams	2005	51	0.080	NA
		Wacker at Adams	2006	85	0.072	0.073
17–031–0064	Cook	Chicago-Ellis Ave.	2004	100	0.054	NA
		Chicago-Ellis Ave.	2005	100	0.084	NA
		Chicago-Ellis Ave.	2006	99	0.070	0.069
17–031–0072	Cook	Chicago-Ohio Street	2004	98	0.060	NA
		Chicago-Ohio Street	2005	99	0.081	NA
		Chicago-Ohio Street	2006	100	0.065	0.068
17–031–0076	Cook	Chicago-Lawndale	2004	100	0.068	NA
		Chicago-Lawndale	2005	100	0.084	NA
		Chicago-Lawndale	2006	100	0.075	0.075
17–031–1003	Cook	Chicago-Hurlbut St.	2004	99	0.067	NA
		Chicago-Hurlbut St.	2005	99	0.083	NA
		Chicago-Hurlbut St.	2006	95	0.075	0.075
17–031–1601	Cook	Lemont	2004	94	0.067	NA
		Lemont	2005	100	0.086	NA
		Lemont	2006	96	0.070	0.074
17–031–4002	Cook	Cicero	2004	100	0.059	NA
		Cicero	2005	100	0.075	NA
		Cicero	2006	100	0.060	0.064
17–031–4007	Cook	Des Plaines	2004	94	0.064	NA
		Des Plaines	2005	99	0.079	NA
		Des Plaines	2006	100	0.065	0.069
17–031–4201	Cook	Northbrook	2004	97	0.067	NA
		Northbrook	2005	100	0.081	NA
		Northbrook	2006	100	0.068	0.072
17–031–7002	Cook	Evanston	2004	100	0.074	NA
		Evanston	2005	98	0.082	NA
		Evanston	2006	97	0.072	0.076
17–043–6001	DuPage	Lisle	2004	99	0.065	NA
		Lisle	2005	97	0.078	NA
		Lisle	2006	100	0.062	0.068
17–089–0005	Kane	Elgin	2004	99	0.067	NA
		Elgin	2005	100	0.086	NA
		Elgin	2006	84	0.062	0.071
17–097–1002	Lake	Waukegan	2004	100	0.067	NA
		Waukegan	2005	99	0.087	NA
		Waukegan	2006	100	0.071	0.075
17–097–1007	Lake	IL Beach State Park	2004	99	0.071	NA
		IL Beach State Park	2005	98	0.090	NA
		IL Beach State Park	2006	100	0.068	0.076

TABLE 1.—ANNUAL FOURTH-HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS IN PARTS PER MILLION (PPM) AND THREE-YEAR AVERAGES—Continued

Site ID	County	Address/site	Year	Percent observations ozone season	Fourth-high daily maximum concentration	Three-year average
17–111–0001	McHenry	Cary	2004	100	0.068	NA
		Cary	2005	98	0.087	NA
		Cary	2006	100	0.057	0.070
17–197–1011	Will	Essex Road	2004	99	0.067	NA
		Essex Road	2005	100	0.077	NA
		Essex Road	2006	94	0.068	0.070
WISCONSIN MONITORING SITE						
55–059–0019	Kenosha	Chiwaukee Prairie	2004	100	0.078	NA
		Chiwaukee Prairie	2005	98	0.093	NA
		Chiwaukee Prairie	2006	99	0.079	0.083

Please note that site 17–031–0042 is located on the top of the Sears Tower, in excess of 1,000 feet above ground-level. This is a special purpose monitor that is not intended to measure ambient air concentrations (concentrations collected near nose levels of adults in areas where the public generally has access). As such, the lack of data during the ozone seasons for this site does not constitute a data completeness problem.

Review of the 2004–2006 ozone concentrations summarized in Table 1 shows that all of the ozone monitoring sites in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area, as well as the Chiwaukee Prairie ozone monitoring site, attained the 8-hour ozone standard during this period. Therefore, based on the most recent three years of quality-assured ozone monitoring data, the 8-hour ozone NAAQS has been attained in the Chicago-Gary-Lake County, IL-IN area.

2. Attainment of the 1-Hour Ozone NAAQS

Prior to the revocation of the 1-hour ozone standard, the Chicago-Gary-Lake County IL-IN area was designated a severe nonattainment area under the 1-hour standard. If the 1-hour NAAQS is deemed reinstated, EPA would construe the State's request for redesignation under the 8-hour standard as also constituting a request under the 1-hour standard. To support a possible redesignation to attainment for Lake and Porter Counties to attainment of the 1-hour ozone NAAQS, if the 1-hour NAAQS is deemed reinstated, it must be shown that the Chicago-Gary-Lake County, IL-IN area is attaining the 1-hour ozone NAAQS. An area is considered attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with the regulation codified at 40 CFR 50.9, based on three consecutive calendar years of complete, quality-assured monitoring data. A violation occurs when the ozone air quality monitoring data show greater than one (1.0) average expected exceedance per year at any site in the area. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the AQS so that it is available to the public for review.

The Indiana request is based on an analysis of ozone air quality data from 2004–2006. Table 2 below summarizes this air quality data.

TABLE 2.—1-HOUR OZONE EXCEEDANCES AT MONITORING SITES IN THE CHICAGO-GARY-LAKE COUNTY, IL-IN AREA INCLUDING THE CHIWAUKEE PRAIRIE MONITORING SITE (2004–2006)

Site code	County	Site	No. 2004 exceedances	No. 2005 exceedances	No. 2006 exceedances	3-year avg. exceedances
ILLINOIS						
17–031–0001	Cook	Alsip	0.0	1.0	0.0	0.3
17–031–0076	Cook	Chicago-Com Ed	0.0	0.0	0.0	0.0
17–031–0072	Cook	Chicago-Jardine	0.0	0.0	0.0	0.0
17–031–0032	Cook	Chicago-SWFP	0.0	1.0	0.0	0.3
17–031–1003	Cook	Chicago-Taft	0.0	0.0	0.0	0.0
17–031–0064	Cook	Chicago-University	0.0	0.0	0.0	0.0
17–031–4002	Cook	Cicero	0.0	0.0	0.0	0.0
17–031–4007	Cook	Des Plaines	0.0	0.0	0.0	0.0
17–031–7002	Cook	Evanston	0.0	0.0	0.0	0.0
17–031–1601	Cook	Lemont	0.0	0.0	0.0	0.0
17–031–4201	Cook	Northbrook	0.0	0.0	0.0	0.0
17–043–6001	DuPage	Lisle	0.0	0.0	0.0	0.0
17–089–0005	Kane	Elgin	0.0	0.0	0.0	0.0
17–097–1002	Lake	Waukegan	0.0	0.0	0.0	0.0
17–097–1007	Lake	Zion	0.0	0.0	0.0	0.0
17–111–0001	McHenry	Cary	0.0	0.0	0.0	0.0
17–197–1011	Will	Braidwood	0.0	0.0	0.0	0.0
INDIANA						
18–089–0022	Lake	Gary	0.0	1.0	0.0	0.3

TABLE 2.—1-HOUR OZONE EXCEEDANCES AT MONITORING SITES IN THE CHICAGO-GARY-LAKE COUNTY, IL-IN AREA INCLUDING THE CHIWAUKEE PRAIRIE MONITORING SITE (2004–2006)—Continued

Site code	County	Site	No. 2004 exceedances	No. 2005 exceedances	No. 2006 exceedances	3-year avg. exceedances
18–089–2008	Lake	Hammond	0.0	0.0	0.0	0.0
18–089–0030	Lake	Whiting	0.0	0.0	0.0	0.0
18–127–0024	Porter	Ogden Dunes	0.0	1.0	0.0	0.3
18–127–0026	Porter	Valparaiso	0.0	0.0	0.0	0.0
WISCONSIN						
55–059–0019	Kenosha	Chiwaukee Prairie	0.0	0.0	0.0	0.0

From Table 2, it can be seen that the Chicago-Gary-Lake County, IL-IN area is attaining the 1-hour ozone standard for the 2004–2006 period because there were no average expected exceedances greater than 1.0.

B. Has the State of Indiana Committed To Maintain the Ozone Monitoring System in Lake and Porter Counties?

IDEM commits to maintain the ozone monitoring system in Lake and Porter Counties during the maintenance period. Any necessary changes in the ozone monitoring system will be discussed in advance with the EPA. Therefore, the State of Indiana meets a redesignation condition that we normally require of States seeking redesignation of areas to attainment of the ozone standard.

C. Have Lake and Porter Counties and the State of Indiana Met All of the Requirements of Section 110 and Part D of the CAA Applicable for Purposes of Redesignation, and Do Lake and Porter Counties Have a Fully Approved SIP Under Section 110(k) of the CAA for Purposes of Redesignation to Attainment?

We have determined that Lake and Porter Counties and the State of Indiana have met all SIP requirements currently applicable for purposes of redesignation to attainment of the 8-hour NAAQS for this area under section 110 of the CAA (general SIP requirements). We have also determined that Indiana has met the SIP requirements applicable for purposes of redesignation under subpart 2 part D of title I of the CAA (requirements specific to ozone nonattainment areas classified under subpart 2. See section 107(d)(3)(E)(v) of the CAA. In addition, we have determined that all applicable requirements, with the exception of the base year emissions inventory, are approved in the Indiana SIP. As discussed in section VIII, below, as part of today's action, EPA is proposing to approve Indiana's 2002 base year emissions inventory. See section 107(d)(3)(E)(ii) of the CAA. In making these determinations, we reviewed the CAA requirements which are applicable to Lake and Porter Counties for purposes of redesignation, and concluded 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 currently applicable requirements of the CAA, which in this case are those CAA requirements applicable to Lake and Porter Counties at the time the State submitted a complete ozone redesignation request for this area, on September 12, 2006.

1. Lake and Porter Counties Have Met All Requirements of Section 110 and Part D of the CAA Applicable for Purposes of Redesignation for the 8-Hour NAAQS

The September 4, 1992 Calcagni memorandum describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, to qualify for redesignation of an area to attainment, the State and the area must meet the relevant CAA requirements that come due prior to the State's submittal of a complete redesignation request for the area. See also a September 17, 1993 memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation, subject ''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'' and 66 FR 12459, 12465–12466 (March 7, 1995) redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS. Applicable requirements of the CAA that come due subsequent to the State's submittal of a complete redesignation request remain applicable until a redesignation to attainment of an area is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

a. Section 110 and General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP, which include: Enforceable emission 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 emission limitations. General SIP elements and requirements are specified in section 110(a)(2) of title I, part A of the CAA. These requirements and SIP elements include, but are not limited to, the following: (i) Submittal of a SIP that has been adopted by the State after reasonable public notice and a public hearing; (ii) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (iii) provisions for implementation of a source permit program; (iv) provisions for implementation of new source part C requirements (Prevention of Significant Deterioration (PSD)) and new source part D requirements (NSR); (v) criteria for stationary source emission control measures, monitoring, and reporting; (vi) provisions for air quality modeling; and, (vii) provision for public and local agency participation.

SIP requirements and elements are discussed in the following EPA documents: The September 4, 1992 Calcagni memorandum; and, the September 17, 1993 Shapiro memorandum. See also other guidance documents discussed above.

Section 110(a)(2)(D) of the CAA requires SIPs to contain certain measures to prevent sources in one state from significantly contributing to air

quality problems in another state. However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's classification. EPA believes that the requirements linked with a particular nonattainment area's classification are the relevant measures to evaluate when 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.

We believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. 65 FR 37890 (June 19, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003). Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and that are not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with an area's designation and classification are the relevant measures for evaluating this aspect of a redesignation request. This approach is consistent with EPA's policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport control requirements. See: Reading, Pennsylvania proposed and final rulemakings (61 FR 53174–53176, October 10, 1996 and 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, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We believe that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Any section 110 requirements that are linked to the Part D requirements for 8-hour ozone nonattainment areas are not yet due, because, as noted below, the only Part D requirements applicable for purposes of redesignation under the 8-hour standard that have become due are the emissions inventory and emissions statement. Therefore EPA concludes that Indiana has satisfied the criterion of section 107(d)(3)(E) regarding section 110 of the Act.

Nonetheless, we also note that the EPA has previously approved provisions in the Indiana SIP addressing section 110 elements under the 1-hour ozone standard.

b. Part D SIP Requirements Under the 8-Hour Ozone Standard

EPA has determined that the Indiana SIP, with the approval of the base year emissions inventory, will meet applicable SIP requirements under part D of the CAA as they apply to redesignation to attainment of the 8-hour ozone NAAQS. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D, which includes sections 172–176 of the CAA, sets forth the basic nonattainment area plan requirements applicable to all nonattainment areas. Subpart 2 of part D, which includes section 182 of the CAA, establishes additional, specific requirements for ozone nonattainment areas dependent on an area's nonattainment classification.

The subpart 1 requirements for all nonattainment areas are contained in sections 172(c)(1–9) and section 176. A thorough discussion of the requirements of section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

The SIP requirements of subpart 2 which are relevant to the review of Indiana's ozone redesignation request are contained in sections 182(a) (marginal nonattainment area requirements) and 182(b) (moderate nonattainment area requirements) of the CAA.[6] As noted in our discussion of 1-hour nonattainment requirements, below, as part of a severe 1-hour ozone nonattainment area, the State of Indiana and Lake and Porter Counties had previously been subject to the requirements of sections 182(a), 182(b), and 182(c) and 182(d) of the CAA.[7]

As a moderate nonattainment area under the 8-hour ozone NAAQS, the Chicago-Gary-Lake County nonattainment area was subject to subpart 2 requirements for moderate nonattainment areas. Only two ''new'' requirements for moderate nonattainment areas under the 8-hour ozone NAAQS came due prior to Indiana's September 12, 2006 submittal of the complete redesignation request for Lake and Porter Counties. One such requirement is that the State submit a 2002 base year comprehensive, accurate inventory of actual emissions of VOC and NO_X in Lake and Porter Counties in compliance with section 182(a)(1) of the CAA. This requirement came due on June 15, 2006, prior to submission of the area's redesignation request. 70 FR 71612, 71664 (November 29, 2005) 40 CFR section 5.915. On March 26, 2007, IDEM submitted documentation of 2002 base year VOC and NO_X emissions in every county in the State. The base year emissions documentation for Lake and Porter Counties is reviewed below in section VIII of this proposed rule. EPA proposes to conclude that Indiana has complied with this requirement.

A second requirement which came due on June 15, 2006 is a requirement under section 182(a)(3)(B) of the CAA for State rules requiring major stationary sources to annually report facility emissions of VOC and NO_X (annual emission statements). Indiana revised its State rule regarding emission statements under the 8-hour ozone standard, and we approved this rule on March 29, 2007 (72 FR 14678).

We believe that other requirements under subparts 1 and 2 that apply to Lake and Porter Counties did not come due prior to the State's submittal of a complete ozone redesignation request for this area and thus do not apply to an evaluation of the redesignation request. Under EPA's longstanding policy these requirements are not applicable for purposes of redesignation. See September 4, 1992 Calcagni memorandum, Detroit-Ann Arbor redesignation, 60 FR 12459, 12465–66 (March 7, 1995), and *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004).

For example, the requirement for submission of an ozone attainment demonstration as contained in section 172(c)(1) was not yet applicable for this area, nor was the requirement for contingency measures under section 172(c)(9) and 182(c)(9), both of which were not due until June 15, 2007.

In addition, no section 172(c)(1) and 182(b)(2) RACT requirement submission under the 8-hour standard is applicable for purposes of redesignation, since the State submitted a redesignation request on September 12, 2006, prior to the due date of the RACT requirements. Thus because the RACT requirements did not become due until after September 15, 2006, under EPA's longstanding policy

[6] As a part of a moderate nonattainment area for the 8-hour ozone NAAQS, Lake and Porter Counties are subject to requirements for both moderate nonattainment areas and marginal nonattainment areas because the requirements of section 182 are cumulative. Under this section, nonattainment areas are subject to all requirements at their classification level and all requirements for areas of lower classification.

[7] As a severe nonattainment area under the 1-hour ozone NAAQS, Lake and Porter Counties had to comply with requirements for severe ozone nonattainment areas.

these requirements are not applicable for purposes of redesignation. Preliminary monitoring data through the time of submittal of the redesignation request showed that the area was attaining the standard, and quality-assured data subsequently showed that the area continued to attain the standard through the end of the ozone season. In addition, the fourth-high concentration for all monitoring sites had occurred by mid-July, 2006. The State of Indiana was tracking peak ozone concentrations in 2006, and through the near-realtime AIRNOW public information system; so was EPA. EPA and the State were aware of the fact that the likely high ozone concentrations in 2006 had occurred prior to the State's submittal of the redesignation request. After reviewing the peak 8-hour ozone concentrations in 2006, we found that the top four 8-hour ozone concentrations for all monitoring sites in the Chicago-Gary-Lake County, IL-IN area and the Chiwaukee Prairie site during 2006 occurred well prior to September 12. In recent previous years as well, no fourth high concentration in excess of the standard had occurred after September 12, and values monitored in late September were below the standard. In 2004–2006, no values above 85 ppm were recorded after September 12. Given the fact that peak ozone concentrations in this area usually occur in June, July, and August, it was highly unlikely at the time of submittal that any additional exceedances would occur after submittal of the redesignation request, and quality-assured data showed that none did in fact occur.

Moreover, with respect to conformity and NSR requirements, EPA believes that these are not applicable requirements for purposes of evaluating a redesignation request.

Under Section 176(c), the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air planning goals in the applicable SIPs. 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 SIP revisions must be consistent with Federal conformity regulations that EPA issued pursuant to the CAA. EPA's longstanding interpretation is that conformity requirements are not applicable requirements for purposes of evaluating redesignation requests. State conformity rules are still required after redesignation of areas to attainment of a NAAQS, and Federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001). See also 60 FR 62748 (December 7, 1995) (Tampa, Florida).

EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation (although Indiana does have an approved NSR program), provided that the states demonstrate maintenance of the standard without part D NSR. PSD requirements will apply after redesignations to attainment. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Indiana has demonstrated that Lake and Porter Counties and the Chicago-Gary-Lake County, IL-IN area will be able to maintain the 8-hour ozone standard without part D NSR in effect, and therefore, we conclude that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State's PSD program will become effective in Lake and Porter Counties upon redesignation to attainment. See rulemakings for: Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and, Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

2. Lake and Porter Counties Have a Fully Approved SIP Under Section 110(k) of the CAA

Except as noted above with respect to emissions inventories, EPA has fully approved the Indiana SIP for Lake and Porter Counties under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (See the September 4, 1992 John Calcagni memorandum, page 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F.3d 984, 989–990 (6th Cir. 1998), and *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 25426 (May 12, 2003). Indiana has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various 1-hour required SIP elements applicable to Lake and Porter Counties for purposes of redesignation, as well as the emissions statement provision for the 8-hour standard. As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of reviewing the State's redesignation request. EPA also believes that since the part D 8-hour requirements, (with the exception of the requirements for submittal of the emissions statement, and the requirement for submittal of a base year emissions inventory, which we address here, including documentation of the base year emissions supplied by the State subsequent to the submittal of the ozone redesignation request), did not become due prior to Indiana's submission of a final, complete redesignation request for Lake and Porter Counties, they also are not applicable requirements for purposes of redesignation.

D. Have Lake and Porter Counties Met the Part D Nonattainment Area and Section 110 Requirements Under the 1-Hour Ozone Standard?

In this section of the proposed rule, we discuss the 1-hour ozone SIP emission control requirements of the CAA applicable to Lake and Porter Counties. As noted above, prior to the revocation of the 1-hour ozone standard, the Chicago-Gary-Lake County, IL-IN area was a severe nonattainment area under the 1-hour ozone standard. In reviewing the State of Indiana's ozone redesignation request for Lake and Porter Counties, we assessed the compliance of this area with the CAA requirements under the 1-hour ozone standard. If the 1-hour standard is deemed to be reinstated, EPA would construe the State's request for redesignation under the 8-hour standard as also constituting a request under the 1-hour standard. We conclude that Lake and Porter Counties and the State have met all CAA requirements applicable to a severe 1-hour ozone nonattainment area.

Lake and Porter Counties, as part of the Chicago-Gary-Lake County, IL-IN area, were subject to ozone requirements for severe 1-hour ozone nonattainment areas pursuant to sections 182(a) through 182(d) of the CAA.

The following paragraphs discuss how the applicable requirements have been met, if the 1-hour standard is deemed to be reinstated.

RACT

Section 182(a)(2)(A) requires RACT corrections, Section 182(b)(2) of the CAA requires RACT for each category of VOC sources covered by a Control Technique Guideline (CTG) and for all other major sources of VOC within an ozone nonattainment area, and Section 182(d) specifies requirements for severe areas, including a major source cutoff of 25 tons per year. Section 182(f) of the CAA requires major sources of NO_X in an ozone nonattainment area to be covered by the same types of emission controls required for sources of VOC, or, in other words, it requires NO_X RACT. Through rulemakings on: March 6, 1992 (57 FR 8082); May 4, 1995 (60 FR 22240); July 5, 1995 (60 FR 34856); January 17, 1997 (62 FR 2591 and 62 FR 2593); October 30, 1996 (61 FR 55889); June 29, 1998 (63 FR 35141); and, June 8, 2000 (65 FR 36343), EPA fully approved Indiana's VOC RACT regulation SIP revisions for Control Technique Guideline (CTG) sources and for non-CTG sources which have an applicability threshold of 25 tons per year (tpy) or more. On January 26, 1996 (61 FR 2428), EPA approved a NO_X control waiver request under section 182(f) of the CAA, exempting Lake and Porter Counties from the NO_X RACT requirement of section 182(f) as it applied to the 1-hour ozone NAAQS.

NSR

Section 182(a)(2)(C) requires States to adopt an NSR permit program and to correct the existing NSR permit programs to meet EPA NSR guidelines issued prior to 1990. EPA approved Indiana's NSR permit program, including the requirements in section 182(c)(6), (c)(7) and (c)(8), and the offset requirements in section 182(d)(2) through rulemakings on October 7, 1994 (59 FR 51108), August 18, 1995 (60 FR 43008), and July 21, 1997 (62 FR 38919). Moreover, as noted above, EPA believes that these are not applicable requirements for purposes of evaluating a redesignation request.

Major Source Emission Statements

Section 182(a)(3)(B) of the CAA requires States to adopt rules requiring major sources of VOC and NO_X in an ozone nonattainment area to submit annual emissions statements regarding their emissions for the prior years. Through rulemakings on August 9, 1994 (59 FR 29956) and October 29, 2004 (69 FR 63069), EPA approved Indiana's emissions statements regulations for 1-hour ozone nonattainment areas.

Vehicle I/M

Through rulemakings on March 19, 1996 (61 FR 11142) and September 27, 2001 (66 FR 49297), EPA fully approved Indiana's vehicle I/M program as meeting the enhanced program requirements of section 182(c)(3) of the CAA. Therefore, Lake and Porter Counties meet the I/M requirements for a severe 1-hour ozone nonattainment area.

ROP

Sections 182(b)(1)(A) and 182(c)(2)(B) of the CAA establish the ROP requirements for ozone nonattainment areas. EPA has fully approved Indiana's SIP revisions that demonstrate that Indiana has achieved ROP in Lake and Porter Counties. On July 18, 1997 (62 FR 38457), EPA approved Indiana's plan to achieve a 15 percent reduction in VOC emissions in Lake and Porter Counties that was required in section 182(b) of the CAA. On January 26, 2000 (65 FR 4126), EPA approved Indiana's plan to achieve ROP between 1996 and 1999 in Lake and Porter Counties, meeting the ROP requirements of section 182(c) of the CAA. Finally, on November 13, 2001 (66 FR 56944), EPA approved Indiana's plan to achieve ROP emission reductions from 1999 through 2007.

Stage II Gasoline Vapor Recovery

On November 3, 1999 (64 FR 59642), EPA approved Indiana's Stage II gasoline vapor recovery program for Lake and Porter Counties as required by section 182(b)(2) of the CAA.

Clean Fuel Fleet Program

On March 21, 1996 (61 FR 11552), EPA approved Indiana's clean fuel fleet program rules as required by section 182(c)(4) of the CAA.

Conformity

The conformity portion of the Court's ruling in *South Coast Air Quality Management District* v. *EPA* does not impact the redesignation request for Lake and Porter Counties because there are no conformity requirements that are relevant to redesignation requests for any standard, including the requirement to submit a transportation conformity SIP.[8] 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. See 40 CFR 51.390. Also see *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), upholding this interpretation, and 60 FR 62748 (December 7, 1995) (Tampa, Florida ozone redesignation).

Section 185 Fee Provisions

Although the fees provision under section 185(a) of the CAA was not specifically identified in the May 10, 1995 Clean Data Policy memorandum as one of the requirements subject to EPA's Clean Data Policy interpretation, EPA's statutory interpretation extends to this provision. Under section 185(a), the fees provision is expressly a component of the attainment demonstration and, since the requirement for an attainment demonstration is suspended, the requirement for its components is also suspended when an area is monitoring attainment of the standard. See 40 CFR section 51.918. EPA has taken the same position with respect to the Reasonably Available Control Measures (RACM) requirement, which is also a component of the attainment demonstration. 70 FR 71645–71646 (November 29, 2005). EPA proposes to find that Lake and Porter Counties are attaining the 1-hour ozone standard, and, thus, the requirement for submitting a fee provision as a component of the 1-hour attainment demonstration is suspended for so long as the area is attaining the standard and until it is redesignated to attainment.

Section 182(g) Milestones

The Section 182(g) Milestones requirements are included in those measures subject to EPA's interpretation in its Clean Data Policy memorandum of May 10, 1995, and because EPA has determined that the area has attained the 1-hour standard, the requirement of section 182(g) is not applicable for so long as the area attains the standard and until it is redesignated to attainment. See also 40 CFR section 51.918.

Enhanced Ambient Monitoring

On March 16, 1994 (59 FR 12168), EPA fully approved Indiana's SIP revision establishing an enhanced monitoring program in Lake and Porter Counties as required by section 182(c)(1) of the CAA.

Transportation Control Measures

Within six years of November 15, 1990, and every three years thereafter, section 182(c)(5) of the CAA requires states to submit a demonstration of whether current aggregate vehicle mileage, aggregate vehicle emissions,

[8] CAA section 176(c)(4)(E) 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 motor vehicle emissions budgets that are established in control strategy SIPs and maintenance plans.

congestion levels, and other relevant traffic-related and vehicle emissions-related factors (collectively ''relevant parameters'') are consistent with those used for the area's ozone demonstration of attainment for serious and above 1-hour ozone nonattainment areas. If the levels of relevant parameters that are projected in the attainment demonstration are exceeded, a state has 18 months to develop and submit a revision of the applicable state implementation plan to include TCMs to reduce emissions to a level consistent with emissions levels in the attainment demonstration for an area.

Alternatively, EPA has determined that nonattainment areas are not permanently locked into the estimates of future emissions given in the initial SIP submittal, nor locked into those in any subsequently approved amendment thereto. As we stated in the General Preamble, once approved, the amended SIP revision would have the effect of increasing the allowable motor vehicle emissions (including those due to changes in the relevant parameters). See 57 FR 13498 at 13520 (April 16, 1992). Thus, if actual emissions exceed those projected in an area's attainment demonstration, a state may at any time before the area reaches attainment, amend an area's SIP to demonstrate attainment while altering the mix of emissions reductions in the SIP from various kinds of sources (motor vehicle versus non-motor vehicle), rather than include TCMs in the SIP.

On April 30, 1998, Indiana submitted an ozone attainment demonstration based on a range of possible emission control measures reflecting various emission control alternatives and did not specify a single set of emission control measures. On December 16, 1999 (64 FR 70514), the EPA proposed to conditionally approve the 1-hour ozone attainment demonstration for Lake and Porter Counties. On December 21, 2000, Indiana submitted a SIP revision request consisting of a demonstration that the Chicago-Gary-Lake County, IL-IN 1-hour ozone nonattainment area would attain the 1-hour ozone NAAQS by November 15, 2007, the statutory attainment deadline for the area. The requested SIP revision was fully approved on November 13, 2001 (66 FR 56944). EPA, therefore, concludes that Indiana has complied with the substance of section 182(c)(5) of the CAA, has no currently due section 182(c)(5) obligations, and, by the virtue of EPA's approval of the 1-hour ozone attainment demonstration, has never triggered an obligation under section 182(c)(5) to include additional TCMs in the 1-hour ozone SIP for Lake and Porter Counties. In addition, the section 182(c)(5) requirements are also included in those measures subject to EPA's interpretation under EPA's May 10, 1995 Clean Data Policy memorandum. EPA therefore proposes in the alternative to find that since Lake and Porter Counties are attaining the 1-hour ozone standard, any requirement for submitting the section 182(c)(5) measures is suspended for so long as the area is attaining the standard and until it is redesignated to attainment. See also 40 CFR 51.918.

Vehicle Miles Traveled

Section 182(d)(1)(A) of the CAA requires severe ozone nonattainment areas to offset the growth in emissions attributable to growth in Vehicle Miles Traveled (VMT); to select and implement TCMs necessary to comply with the periodic emission reduction requirements of section 182(b) and (c); and, to consider TCMs specified in section 108(f), and implement such TCMs as necessary to demonstrate attainment with the ozone standard. Through rulemakings on July 28, 1995 (60 FR 38718) and August 3, 2001 (66 FR 40829), EPA approved Indiana's TCMs as meeting these requirements of the CAA.

NO_X Requirements

With respect to NO_X requirements under section 182(f) of the CAA, as discussed above, EPA has approved a NO_X control waiver for Lake and Porter Counties. See 61 FR 2428 (January 26, 1996). In addition, we have approved Indiana NO_X emission control regulations adopted in response to EPA's NO_X SIP call. See 66 FR 56465 (November 8, 2001) and 68 FR 69025 (December 11, 2003).

Emission Inventories

Section 182(a)(1) requires that States submit comprehensive, accurate, current inventories of actual emissions from all sources, within 2 years of enactment of the CAA amendments of 1990. This inventory requirement was approved on January 4, 1995 (60 FR 375). Periodic VOC and NO_X emission inventories were required to be submitted every three years, beginning in November 15, 1995. NO_X and VOC emission inventory updates for 1999, 2002, and 2004 are contained in Indiana's September 12, 2006 submittal. EPA is proposing to approve these emission inventory updates as meeting the section 182(a)(3)(A) requirement of the CAA for periodic emission inventory submissions under the 1-hour standard.

Ozone Attainment Demonstration

As noted above, on November 13, 2001 (66 FR 56944), EPA fully approved Indiana's 1-hour ozone attainment demonstration SIP revision for the Chicago-Gary-Lake County, IL-IN 1-hour ozone nonattainment area.

Contingency Measures

Sections 172(c)(9) and 182(c)(9) of the CAA require ozone control plans to contain measures to be implemented in the event that any milestone in the ozone control plan is missed. EPA approved Indiana's contingency measures for attainment of the 1-hour ozone standard in Lake and Porter Counties in our approval of the State's ozone attainment plan. See 66 FR 56944 (November 13, 2001).

For the above reasons EPA believes that Indiana has met all applicable part D requirements under the 1-hour ozone standard for purposes of redesignation. It is noted that the State has committed to maintain the VOC and NO_X emission controls already in place.

In addition, EPA has previously approved provisions in the Indiana SIP addressing section 110 elements under the 1-hour standard. We have analyzed the Indiana SIP as codified in 40 CFR part 52, subpart P, and have determined that it is consistent with the requirements of section 110(a)(2) of the CAA.

Therefore, with regard to compliance with the requirements for the 1-hour ozone standard, the State has met all applicable requirements for purpose of redesignation under the 1-hour standard, were that standard to be deemed reinstated. In addition, as discussed below, the State's maintenance plan for the 8-hour standard also provides for maintenance of the 1-hour standard (the area has an approvable ozone maintenance plan and the State is committed to revise this plan within 8 years after the redesignation of the area to attainment). We also find that, as set forth below, the area has achieved the ozone standard due to the implementation of permanent, enforceable emission controls; and the EPA has fully approved an ozone SIP meeting all requirements applicable for purposes of redesignation. As noted below, the State of Indiana and Lake and Porter Counties meet these requirements for the 8-hour ozone NAAQS. We propose to find that Lake and Porter Counties would also qualify for redesignation to attainment of the 1-hour ozone NAAQS if this standard is deemed to be reinstated.

E. Are the Air Quality Improvements in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN Nonattainment Area Due to Permanent and Enforceable Emission Reductions Resulting From the Implementation of the Indiana SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Emission Reductions?

To make the demonstration that the improvement in air quality is due to permanent and enforceable emissions reductions, the State of Indiana has documented changes in VOC and NO_X emissions from all anthropogenic (man-made or man-based) sources in Lake and Porter Counties between 1999 and 2004, including 2002, an ozone standard violation year, and 2004, one of the years in which the Chicago-Gary-Lake County, IL-IN area attained the 8-hour ozone standard. The State has also discussed the permanent and enforceable emission controls that have been implemented in Lake and Porter Counties, in the State of Indiana, and in other upwind areas that have contributed to the air quality improvement in Lake and Porter Counties.

Table 3 summarizes the VOC and NO_X emissions totals from the anthropogenic sources in Lake and Porter Counties for 1999 through 2004. From the table, it can be seen that both VOC and NO_X emissions in Lake and Porter Counties decreased between 1999 and 2004 and, most importantly, between 2002, an ozone standard violation year, and 2004, an ozone standard attainment year.

TABLE 3.—VOC AND NO_X EMISSIONS FROM ANTHROPOGENIC SOURCES IN LAKE AND PORTER COUNTIES IN TONS PER SUMMER DAY

Source sector	1999	2002	2004
VOC Emissions:			
Point	28.84	24.58	25.62
Area	49.59	32.27	31.33
On-Road Mobile	33.29	20.00	18.90
Non-Road Mobile	19.98	35.09	31.63
Total	131.70	111.94	107.48
NO_X Emissions:			
Point	214.58	186.44	148.20
Area	10.36	5.72	5.77
On-Road Mobile	49.92	55.00	65.95
Non-Road Mobile	49.07	38.61	40.64
Total	323.93	285.77	260.56

Table 4 summarizes the NO_X emission trends for Electric Generating Units (EGUs) in Northwest Indiana (Jasper, Lake, LaPorte, and Porter Counties) and statewide for 1999 through 2005.

TABLE 4.—NO_X EMISSION TRENDS FOR ELECTRIC GENERATING UNITS IN NORTHWEST INDIANA AND STATEWIDE—EMISSIONS IN THOUSANDS OF TONS PER OZONE SEASON (APRIL–SEPTEMBER)

Area	1999	2000	2001	2002	2003	2004	2005
Northwest Indiana	31.8	25.0	27.4	22.7	18.0	11.8	10.6
Statewide	149.8	133.9	136.1	114.0	99.3	66.6	55.5

As noted in Tables 3 and 4, the total VOC emissions in Lake and Porter Counties and the EGU NO_X emissions in Northwest Indiana and statewide have declined between 1999 and 2004. IDEM notes that these emission decreases have resulted from the implementation of permanent and enforceable emission controls, such as implementation of RACT rules, tighter Federal standards for new vehicles, Title IV of the CAA, and NO_X controls required by the Indiana NO_X SIP. Specifically in Lake and Porter Counties, the following emission control measures were implemented: RACT rules found in volume 326 of the Indiana Administrative Code (IAC) chapter 8 (326 IAC 8), including IAC 8–1 (best available control technology for new source facilities), IAC 8–2 (surface coating emission limitations), IAC 8–3 (solvent degreasing controls), IAC 8–4 (petroleum source controls), IAC 8–5 (miscellaneous operation controls), and IAC 8–6 (organic solvent emission limitations); VOC emission controls implemented to meet Rate-Of-Progress (ROP) requirements, including the following:

1. Enhanced Vehicle Inspection and Maintenance
2. Stage II Vapor Recovery on Gasoline Marketing Sources
3. Reformulated Gasoline
4. National VOC Emission Standards for Architectural Coatings
5. Residential Open Burning Ban
6. Non-Control Technology Guideline Source RACT
7. National Emission Standards for Benzene from Coke Oven By-Product Recovery Plants
8. National Emission Standards for Coke Oven Batteries
9. Federal Phase I Reformulated Gasoline for Small Non-Road Engines
10. Federal Controls on Small Spark-Ignited Engines
11. Commercial/Consumer Solvent Reformulation Rule
12. Volatile Organic Liquid Storage RACT
13. Sinter Plant Rule
14. Municipal Solid Waste Landfill Rule
15. Petroleum Refineries National Emission Standard for Hazardous Air Pollutants
16. Banning of the Use of Untreated Water for Quenching, and,

17. Cold Cleaner Degreaser RACT (an extension of 326 IAC 8–3).

NO_X emission controls in Lake and Porter County resulted from the implementation of the NO_X emission control requirements and emission caps included in the State's NO_X SIP. Beginning in 2004, this set of NO_X control rules accounted for a reduction of approximately 33 percent statewide from 2003 EGU emissions. IDEM also notes that other states have also implemented similar NO_X emission controls, resulting in reduced ozone and ozone precursor transport into Lake and Porter Counties and into the Chicago-Gary-Lake County, IL-IN ozone nonattainment area.

IDEM is convinced that all of these VOC and NO_X emission controls, which are permanent and enforceable, are responsible for the observed ozone air quality improvement in Lake and Porter Counties and have contributed significantly to the attainment of the 8-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN area. See also the discussion of Temperature Ozone Exceedance Frequency Study in section VII B. of this proposal.

Besides the State's VOC RACT, ROP, and NO_X emission control requirements, other Federal emission control requirements have recently resulted in VOC and NO_X emission reductions or will shortly further reduce VOC and NO_X emissions in Northwest Indiana and throughout the Chicago-Gary-Lake County, IL-IN area. These emission reduction requirements include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. These emission control requirements result in lower emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules are being phased in between 2004 and 2009. The EPA has estimated that, by the end of the phase-in period, the following vehicle NO_X emission reductions will occur nationwide: Passenger cars (light duty vehicles) (77 percent); light duty trucks, minivans, and sports utility vehicles (86 percent; and larger sports utility vehicles, vans, and heavier trucks (69 to 95 percent). VOC emission reductions are also expected to range from 12 to 18 percent, depending on vehicle class, over the same period. Although some of these emission reductions have already occurred by the 2004–2006 attainment years, most of these emission reductions will occur during the maintenance period for Lake and Porter Counties.

Heavy-Duty Diesel Engines. In July 2000, EPA issued a final rule to control the emissions from highway heavy duty diesel engines, including low-sulfur diesel fuel standards. These emission reductions are being phased in between 2004 and 2007. This rule is expected to result in a 40 percent decrease in NO_X emissions from heavy duty diesel vehicles.

Non-Road Diesel Rule. Issued in May 2004, this rule generally applies to new stationary diesel engines used in certain industries, including construction, agriculture, and mining. In addition to affecting engine design, this rule includes requirements for cleaner fuels. It is expected to reduce NO_X emissions from these engines by up to 90 percent, and to significantly reduce particulate matter and sulfur emissions from these engines in addition to the NO_X emission reduction. This rule did not affect 2004 emissions from these sources, but will limit emissions from new engines beginning in 2008.

Indiana commits to maintain all existing emission control measures that affect Lake and Porter Counties and the Chicago-Gary-Lake County, IL-IN area after Lake and Porter Counties are redesignated to attainment of the 8-hour ozone NAAQS. All changes in existing rules affecting Lake and Porter Counties and new rules subsequently needed to provide for the maintenance of the 8-hour ozone NAAQS in Lake and Porter Counties will be submitted to the EPA for approval as SIP revisions.

Thus, EPA proposes to determine that Lake and Porter Counties have met the requirement of section 107(d)(3)(E)(iii) of the CAA that the improvement in air quality is due to permanent and enforceable emissions reductions.

F. Do Lake and Porter Counties Have a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA?

In conjunction with its request to redesignate Lake and Porter Counties to attainment of the ozone NAAQS, Indiana submitted a SIP revision request to provide for maintenance of the 8-hour ozone NAAQS in this area for at least 10 years after the redesignation of this area to attainment of the 8-hour ozone NAAQS. EPA proposes to approve this maintenance plan pursuant to section 175A and section 107(d)(3)(E)(iv) of the CAA.

1. What Is Required in an Ozone Maintenance Plan?

Section 175A of the CAA sets forth the required elements of air quality maintenance plans for areas seeking redesignation from nonattainment to attainment of a NAAQS. Under section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves the redesignation to attainment. Within eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates maintenance of the standard for 10 years following the initial 10-year maintenance 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 NAAQS violations. The September 4, 1992 John Calcagni memorandum provides additional guidance on the content of maintenance plans. An ozone maintenance plan should, at minimum, address the following items: (1) The attainment VOC and NO_X emissions inventories; (2) a maintenance demonstration showing maintenance for the 10 years of the maintenance period; (3) a commitment to maintain the existing monitoring network; (4) factors and procedures to be used for verification of continued attainment; and, (5) a contingency plan to prevent and/or correct a future violation of the NAAQS.

2. What Are the Attainment Emission Inventories for Lake and Porter Counties?

IDEM prepared comprehensive VOC and NO_X emission inventories for Lake and Porter Counties, including point (significant stationary sources individually inventoried), area (smaller and widely-distributed stationary sources collectively inventoried by source type and geographical area), mobile on-road, and mobile non-road sources for 2004 (the redesignation request's base year/attainment year). To develop the attainment year emission inventories, IDEM used the following approaches and sources of data.

a. Point Sources

2004 point source emissions were compiled using IDEM's annual emissions statement database and the 2005 EPA Air Markets acid rain emissions inventory database.

b. Area Sources

Area source VOC and NO_X emissions were projected from Indiana's 2002 base year emissions inventory, which was previously submitted to EPA's National Emissions Inventory system. The documentation of this base year emissions inventory has been submitted by the State, and is reviewed elsewhere in this proposed rule.

c. On-Road Mobile Sources

Mobile source emissions were calculated using the MOBILE6 emission factor model and traffic data (vehicle miles traveled, vehicle speeds, and vehicle type and age distributions by roadway link and area) developed using the region's travel-demand model. IDEM has provided detailed data summaries to document the calculation of on-road mobile source VOC and NO_X emissions for 2004, as well as for the projection years of 2010 and 2020 (further discussed below).

d. Non-Road Mobile Sources

2004 non-road mobile source emissions were projected for the 2002 National Emissions Inventory (NEI) non-road mobile source emissions developed by the EPA. IDEM used the NEI emissions along with growth factors to grow the non-road mobile source emissions to 2004. To address concerns about the accuracy of some of the emissions for various source categories in EPA's non-road emissions, the Lake Michigan Air Directors Consortium (LADCO) contracted with several consulting companies to review the base data used by the EPA and to make recommendations for corrections to the model used to calculate the 2002 emissions. Emissions were estimated for commercial marine vessels and railroads. Recreational motorboat populations and surrogates (used to assign emissions to each county) were updated by contracted consultants. The populations for the construction equipment category were reviewed and updated based on surveys completed in the Midwest, and the temporal allocation of agricultural sources was also updated. Based on these and other updates, the EPA revised the non-road estimation model for 2002, which was used for the basis for the projected 2004 non-road mobile source emissions.

The 2004 attainment year VOC and NO_X emissions for Lake and Porter Counties are summarized along with the 2010 and 2020 projected emissions in Tables 5 below. We agree that the State has acceptably derived and documented the attainment year VOC and NO_X emissions for Lake and Porter Counties.

3. Has the State Demonstrated Maintenance of the Ozone Standard in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN Ozone Nonattainment Area?

As part of the September 12, 2006 redesignation request submittal, IDEM included a requested revision to the SIP to incorporate an ozone maintenance plan as required under section 175A of the CAA. The maintenance plan includes an ozone maintenance demonstration based on the comparison of projected emissions to the attainment year emissions levels. This demonstration shows that future (2010 and 2020) VOC and NO_X emissions remain at or below the 2004 attainment year levels. Note that a maintenance demonstration need not be based on modeling. *See Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001) and 68 FR 25430–25432 (May 12, 2003).

Table 5 specifies the VOC and NO_X emissions in Lake and Porter Counties for 2004, 2010, and 2020. IDEM chose 2020 as the maintenance projection year to meet the 10-year maintenance projection requirement, allowing time for the EPA to approve the redesignation request and maintenance plan. IDEM also chose 2010 as an interim year to demonstrate that VOC and NO_X emissions will remain below the attainment year levels throughout the maintenance period.

TABLE 5.—ATTAINMENT YEAR AND PROJECTED VOC AND NO_X EMISSIONS IN LAKE AND PORTER COUNTIES IN TONS PER SUMMER DAY

Source sector	Years		
	2004	2010	2020
VOC Emissions:			
Point	25.62	25.36	30.84
Area	31.33	31.72	34.31
On-Road Mobile	18.90	9.93	5.71
Non-Road Mobile	31.63	24.44	20.26
Total	107.48	91.45	91.12
NO_X Emissions			
Point	148.20	97.06	102.15
Area	5.77	6.07	6.40
On-Road Mobile	65.95	38.65	11.97
Non-Road Mobile	40.64	33.95	28.51
Total	260.56	175.73	149.03

Using emissions data provided by LADCO for the remainder of the Chicago-Gary-Lake County, IL-IN ozone nonattainment area (for the Illinois portion of this area), IDEM has also determined the VOC and NO_X emissions for the entire nonattainment area. These VOC and NO_X emissions are summarized in Table 6.

TABLE 6.—ATTAINMENT YEAR AND PROJECTED VOC AND NO_X EMISSIONS IN THE CHICAGO-GARY-LAKE COUNTY, IL-IN OZONE NONATTAINMENT AREA IN TONS PER SUMMER DAY

Source sector	Years		
	2004	2010	2020
VOC Emissions:			
Point	97.65	94.35	128.84
Area	225.34	221.72	234.32

TABLE 6.—ATTAINMENT YEAR AND PROJECTED VOC AND NO_X EMISSIONS IN THE CHICAGO-GARY-LAKE COUNTY, IL-IN OZONE NONATTAINMENT AREA IN TONS PER SUMMER DAY—Continued

Source sector	Years		
	2004	2010	2020
On-Road Mobile	198.90	165.27	100.60
Non-Road Mobile	159.63	109.44	122.25
Total	681.52	590.78	586.01
NO_X Emissions:			
Point	442.21	301.06	334.15
Area	45.77	53.07	57.40
On-Road Mobile	464.95	314.59	145.08
Non-Road Mobile	321.64	242.95	101.51
Total	1274.57	911.67	638.14

Tables 5 and 6 show that VOC and NO_X emissions are projected to decline in both Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area after 2004. This demonstrates maintenance of the ozone standard in these areas through 2020 and throughout the ozone maintenance period.

IDEM also notes that the State's EGU NO_X emission control rules stemming from EPA's NO_X SIP call, implemented beginning in 2004, with additional NO_X emission reductions expected to result from the implementation of new Phase 2 NO_X rules, and the Clean Air Interstate Rule (CAIR) will further lower NO_X emissions throughout Northwest Indiana, in the Chicago-Gary-Lake County, IL-IN area, statewide in Indiana, and in other upwind states, resulting in decreased ozone and ozone precursor transport into Lake and Porter Counties and the Chicago-Gary-Lake County area. This will also support maintenance of the ozone standard in the Chicago-Gary-Lake County area.

IDEM has documented some of the procedures used to project emissions. On-road mobile sources were projected using the MOBILE6 emission factor model and projected traffic data obtained from the Northwest Indiana Regional Planning Commission (NIRPC), which maintains a travel demand forecast model that is capable of projecting changes in total daily VMT. Emissions for the other major source sectors were determined using projected source activity/growth data provided by LADCO, as well as major source emissions data obtained periodically for all major sources statewide.

Based on the comparison of the projected emissions and the attainment year emissions, we conclude that IDEM has successfully demonstrated that the 8-hour ozone standard should be maintained in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN area. We believe that this is especially likely given the expected impacts of the NO_X SIP call and CAIR. As noted by IDEM, this conclusion is further supported by the fact that other states in the eastern portion of the United States are expected to further reduce regional NO_X emissions through implementation of their own NO_X emission control rules for EGUs and other NO_X sources and through implementation of CAIR, reducing ozone and NO_X transport into Lake and Porter Counties.

The demonstration of maintenance for the 8-hour standard also demonstrates maintenance for the 1-hour standard because the same attainment year and maintenance year emissions inventories that show maintenance for the 8-hour standard similarly show maintenance for the 1-hour standard. As demonstrated above, future VOC and NO_X emissions are projected to remain at or below the 2004 attainment year levels.

4. What Is the Contingency Plan for Lake and Porter Counties?

a. Verification of Continued Attainment

Continued attainment of the 8-hour ozone NAAQS in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN area depends on the State's efforts toward tracking applicable indicators during the maintenance period and taking appropriate actions if trends in the indicators indicate that additional emission reductions are needed to correct an existing or developing air quality problem. The State's plan for verifying continued attainment of the 8-hour ozone standard in these areas consists, in part, of a plan to continue ambient monitoring in Lake and Porter Counties and to track ozone air quality in the maintenance area, including the Illinois portion of the Chicago-Gary-Lake County area and the Chiwaukee Prairie, WI monitor. In addition, IDEM will periodically revise and review the VOC and NO_X emissions for Lake and Porter Counties to assure that emissions growth is not threatening the continued attainment of the 8-hour standard in this area. Revised emission inventories for this area will be prepared for 2005, 2008, and 2011 as necessary to comply with the emission inventory reporting requirements established in the CAA. The revised emissions will be compared with the 2004 attainment emissions and the 2020 projected maintenance year emissions to assure continued maintenance of the ozone standard.

b. Contingency Plan

The contingency plan provisions of the CAA are designed to result in prompt correction or prevention of violations of the NAAQS that might occur after redesignation of an area to attainment of the NAAQS. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that might occur after redesignation. The maintenance plan must identify the contingency measures to be considered for possible adoption, a schedule and procedure for adoption and implementation of the selected contingency measures, and a time limit for action by the State. The State should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the State will implement all measures with respect to control of the pollutant(s) that were controlled in the SIP before the redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted a contingency plan to address a possible future ozone air quality problem. The contingency plan has two levels of actions/responses depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level Response) or has actually occurred (Action Level Response).

A Warning Level Response will be prompted whenever an annual (1-year) fourth-high monitored daily maximum 8-hour ozone concentration of 0.089 ppm occurs in a single ozone season or a 2-year averaged fourth-high monitored daily maximum 8-hour ozone concentration of 0.085 ppm or greater occurs within the maintenance area. A Warning Level Response will consist of a study to determine whether the ozone concentration indicates a trend toward higher ozone concentrations or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend taking into consideration ease and timing for implementation, as well as economic considerations. Implementation of necessary controls in response to the Warning Level Response trigger will take place as expeditiously as possible, but in no event later than 12 months from the conclusion of the most recent ozone season (September 30). If new emission controls are needed to reverse the adverse ozone/emissions trend, the procedure for emission control selection under the Action Level Response will be followed.

An Action Level Response will be triggered when a violation of the 8-hour ozone standard is monitored at any of the monitors in the area. On February 20, 2007, IDEM submitted a letter to the EPA clarifying that an Action Level Response will be triggered if a future violation of the 8-hour ozone NAAQS is monitored within any part of the Chicago-Gary-Lake County, IL-IN area or at the Chiwaukee Prairie monitoring site in Kenosha County, Wisconsin. In the event that the Action Level is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a source permit condition or rule requirement, IDEM will determine additional control measures needed to assure future attainment of the ozone NAAQS. In this case emission control measures that can be implemented in a short time will be selected in order to be implemented within 18 months from the close of the ozone season that prompted the Action Level Response.

Adoption of any additional emission control measures prompted by either of the two response levels will be subject to the necessary administrative and legal processes dictated by State law. This process will include publication of public notices, providing the opportunity for a public hearing, and other measures required by Indiana law for rulemaking by State environmental boards. If a new emission control measure is already promulgated and scheduled for implementation at the Federal or State level, and that emission control measure is determined to be sufficient to address the air quality problem or adverse trend, additional local emission control measures may be determined to be unnecessary. IDEM will submit to the EPA an analysis to demonstrate that the proposed emission control measures or existing emission control measures are adequate to return the area to attainment. As discussed below, EPA understands that Indiana will commit to submit any such proposed or existing emission control measure to EPA as a SIP revision.

Contingency measures contained in the maintenance plan are those emission controls or other measures that the State may choose to adopt and implement in response to either an Action Level or a Warning Level trigger. These include, but are not limited to, the following:

i. Vehicle emissions testing program enhancements, including liquid leak inspection; increased vehicle weight limit cutoffs; addition of diesel vehicles; etc.;

ii. Asphalt paving VOC content restrictions (lower VOC formulation requirements);

iii. Diesel exhaust retrofits;

iv. Traffic flow improvements;

v. Vehicle idle reduction programs;

vi. Portable fuel container regulation (statewide);

vii. Park and ride facilities;

viii. Rideshare/carpool programs;

ix. VOC cap-and-trade program for major stationary sources; and,

x. Commercial/consumer solvent VOC content limits (statewide).

No contingency measure will be implemented without providing the opportunity for full public participation in the selection and adoption of controls. During this process, the relative costs and benefits of individual control measures would be evaluated.

EPA notes that two aspects of the contingency plan merit further discussion. First, the plan does not require the adoption and implementation of new emission controls in the event of a future ozone standard violation if it can be shown that the ozone standard violation is due to an exceptional event, source malfunction, or source noncompliance. If a monitored exceedance is determined to be due to an exceptional event, it will no longer be considered in determining whether a violation has occurred. With regard to source malfunctions or source noncompliance, we note that the Indiana SIP contains provisions for ensuring that sources take actions to correct malfunctions, as well as provisions for the State to take enforcement actions against noncompliant sources. EPA believes that this provides a mechanism for the State to take prompt corrective action, including expeditious and effective enforcement action to achieve compliance. See an analogous discussion in the General Preamble, 57 FR 13547 (April 16, 1992). In the context of section 172(c)(9) contingency measures for sulfur dioxide (SO_2), EPA has interpreted ''contingency measures'' ''to mean that the State agency has a comprehensive program to identify sources of violations of the NAAQS and to undertake an aggressive follow-up for compliance and enforcement, including expedited procedures for establishing enforceable consent agreements pending the adoption of revised SIPs.'' This type of source-specific noncompliance and correction by enforcement action in the ozone context is similar to source-specific SO_2 noncompliance and enforcement, and therefore it is appropriate to apply the SO_2 guidance in this circumstance.

Second, the maintenance plan does not call for the State to adopt and implement new contingency measures if it can be shown that an already adopted emission control measure (State or Federal) will eliminate an ozone air quality problem. We believe that such an emission control measure should become part of the SIP. Prior to final rulemaking, Indiana must commit that it will submit such a measure as a SIP revision, and final approval of the maintenance plan is conditioned upon the State committing to submit such measures as requested SIP revisions. Indiana has indicated that they will make such a commitment. This issue aside, we otherwise propose to approve the ozone maintenance plan as providing for maintenance of both the 8-hour and 1-hour standards, if that standard is deemed to be reinstated. With respect to maintenance of the 1-hour standard, EPA has determined that the 8-hour NAAQS provides increased public health protection as compared to the 1-hour ozone standard. See 62 FR at 38859 (July 18, 1997). Because the 8-hour standard is more stringent than the 1-hour standard, a maintenance plan

with triggers tied to the 8-hour standard will be more protective of public health than a maintenance plan with contingency measure triggers tied to the 1-hour standard.

5. Has the State Committed To Update the Ozone Maintenance Plan in Eight Years After the Redesignation of Lake and Porter Counties to Attainment of the 8-Hour Ozone NAAQS?

As required by section 175A(b) of the CAA, the State commits to submit to the EPA an update of the ozone maintenance plan eight years after redesignation of Lake and Porter Counties to attainment of the 8-hour ozone NAAQS. The updated maintenance plan will provide maintenance of the 8-hour ozone standard for an additional 10 years beyond the first 10 years of maintenance of the standard.

VI. Has the State Adopted Acceptable MVEBs for the End Year of the Ozone Maintenance Period Which Can Be Used To Support Transportation Conformity Determinations?

A. How Are the MVEBs Developed and What Are the MVEBs for Lake and Porter Counties?

Under the CAA, states are required to submit, at various times, SIP revisions and ozone maintenance plans for applicable areas (for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard or revising existing ozone maintenance plans). These emission control SIP revisions (*e.g.*, reasonable further progress and attainment demonstration SIP revisions), including ozone maintenance plans, must create MVEBs based on on-road mobile source emissions allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance of the ozone NAAQS.

Under 40 CFR part 93, MVEBs for an area seeking a redesignation to attainment of the NAAQS must be established for the last year of the maintenance plan. The MVEBs serve as ceilings 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 the MVEBs in the SIP and how to revise the MVEBs if needed.

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 SIP. Conformity to the SIP means that transportation activities will not cause or contribute to new air quality standard violations, increase the frequency or severity of existing violations, or delay timely attainment of the NAAQS. CAA section 176(c)(1). If a transportation plan does not conform, most new transportation projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA's policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must find that the MVEBs are ''adequate'' for use in determining transportation conformity. Once EPA finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are used by state and Federal agencies in determining whether proposed transportation projects conform to the SIPs as required by section 176(c) of the CAA. EPA's criteria for determining the adequacy of MVEBs are specified in 40 CFR 93.118(e)(4).

EPA's process for determining adequacy of MVEBs consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEBs during a public comment period; and, (3) making a finding of adequacy. The Transportation Conformity Rule, in 40 CFR 93.118(f), provides for MVEB adequacy findings through two mechanisms. First, 40 CFR 93.118(f)(1) provides for posting a notice to the EPA conformity Web site at: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm* and providing a 30-day public comment period. Second, a mechanism is described in 40 CFR 93.118(f)(2) which provides that EPA can review the adequacy of an implementation plan MVEB simultaneously with its review of the implementation plan itself. In this notice, EPA is using the second mechanism in 40 CFR 93.118(f)(2) and is taking comment on both the adequacy and approvability of the submitted MVEBs.

The Lake and Porter Counties' ozone maintenance plan contains VOC and NO_X MVEBs for 2020 and also for 2010. The State has the option of setting budgets for earlier years in the maintenance plan in addition to the last year of the maintenance plan. Indiana has submitted budgets for both the 2010 year and also the 2020 year. EPA is taking comment on both the adequacy and approvability of the submitted VOC and NO_X MVEBs for Lake and Porter Counties. Any and all comments on the adequacy and approvability of the MVEBs should be submitted during the comment period stated in the **DATES** section of this notice.

EPA intends to make its determination of the adequacy of the 2010 and 2020 MVEBs for Lake and Porter Counties for transportation conformity purposes in the final rulemaking on the 8-hour ozone redesignation. If EPA finds the 2010 and 2020 MVEBs adequate and approves the MVEBs in the final rulemaking action, the new MVEBs must be used for future transportation conformity determinations. The new MVEBs, if found adequate and approved in the final rulemaking, will be effective the date of publication of EPA's final rulemaking in the **Federal Register**. For required regional emissions analysis years that involve the year 2009 or before, the applicable budget for the purposes of conducting transportation conformity will be the MVEBs for Lake and Porter Counties in the approved 1-hour ozone maintenance plan. For required regional emissions analysis years that involve 2010 or beyond, the applicable budgets are defined in the table below.

LAKE AND PORTER COUNTY AREA MVEBS

[Tons per day]

Year	VOC	NO_X
2010	11.5	40.6
2020	6.0	12.6

These MVEBs will be separate state area budgets for Lake and Porter Counties, Indiana. Illinois will establish MVEBs for the remainder of the Chicago 8-hour ozone area through the 8-hour ozone SIP submitted by Illinois.

EPA, through this rulemaking, is proposing to approve the MVEBs for both 2020 and 2010, as part of the 8-hour maintenance plan, to be used to determine transportation conformity in Lake and Porter Counties. EPA has determined that the budgets are consistent with the control measures in the SIP and that Lake and Porter Counties can maintain attainment of the 8-hour ozone NAAQS (projected VOC and NO_X emissions for 2010 and 2020 remain below the attainment year, 2004, levels) for the relevant required 10-year period with mobile source emissions at the levels of the MVEBs. It should be noted that the current approved 1-hour ozone budgets, which were approved as part of the 1-hour ozone attainment

demonstration, will continue to be used for transportation conformity purposes through 2009. The current 1-hour ozone budgets that are being used for transportation conformity purposes are for the 2007 year and cap emissions at 12.37 tons per day for VOCs and 63.33 tons per day for NO_X. When the 8-hour ozone maintenance plan MVEBs are approved or found adequate, the new 2010 and 2020 budgets will provide a lower cap on emissions in Lake and Porter Counties because the new budgets are lower than the current 2007 budgets. IDEM has determined the 2010 MVEBs for Lake and Porter Counties to be 11.5 tons per day of VOC and 40.6 tons per day of NO_X. IDEM has also determined the 2020 MVEBs for Lake and Porter Counties to be 6.0 tons per day for VOC and 12.6 tons per day for NO_X. It should be noted that these MVEBs exceed the on-road mobile source VOC and NO_X emissions projected by IDEM for 2010 and 2020, as summarized in Table 5 above (''On-Road Mobile'' source sector). Through discussions with all organizations involved in transportation planning for Lake and Porter Counties, IDEM decided to include safety margins of 5 percent (0.29 tons per day for VOC and 0.63 tons per day for NO_X for 2020) in the MVEBs to provide for mobile source growth not anticipated in the projected 2010 and 2020 emissions and for a margin of error in the calculation of future mobile source emissions. Indiana has demonstrated that Lake and Porter Counties can maintain the 8-hour ozone NAAQS with these mobile source emissions since total source emissions including the increased mobile source emissions will remain under the attainment year emission levels.

B. Are the MVEBs Approvable?

The submitted MVEBs meet the criteria for adequacy. The submitted SIP was endorsed by the Governor and was subject to a State public hearing. The MVEBs were discussed during consultation among Federal, state and local agencies. The MVEBs are clearly identified and precisely quantified in the submitted SIP. The MVEBs, when considered together with all other emissions sources, are consistent with applicable requirements for maintenance. The MVEBs are consistent with and clearly related to the emissions inventory and the control measures in the submitted maintenance plan; and the established safety margins are within the allowable limits. No negative comments were received at the State public hearing which addressed the MVEBs in the maintenance plan.

The 2010 and 2020 VOC and NO_X MVEBs for Lake and Porter Counties are approvable because the MVEBs meet all of the above criteria and maintain the total VOC and NO_X emissions for Lake and Porter Counties at or below the attainment year emission inventory levels, as required by the transportation conformity regulations. These MVEBs are adequate and approvable for transportation conformity purposes.

VII. Modeled Attainment of the Ozone Standard

Although EPA does not require use of air quality models to support ozone redesignation requests, IDEM has chosen to review existing modeling results to support the view that the 8-hour ozone NAAQS has been attained in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN area due to the implementation of permanent and enforceable emission controls, and that attainment of the ozone standard will be maintained in these areas as the result of implementation of additional emission controls already adopted. In addition, analyses of modeling results and other related meteorological data also allowed IDEM to assess the impacts of changes in meteorology on area peak ozone concentrations to support the case that changes in emissions are responsible for attainment of the ozone standard in these areas and not changes in meteorology.

A. Regional Ozone Modeling Results

Regional ozone modeling has been conducted to support several national emission control efforts and to support the preparation of 8-hour ozone attainment demonstrations in the Lake Michigan region. The results of these modeling studies have been reviewed for their modeled ozone concentrations in Lake and Porter Counties and the rest of the Chicago-Gary-Lake County area. The conclusions based on these modeling studies are summarized here.

EPA Modeling Analysis for Heavy-Duty Engine and Diesel Fuel Rules

EPA conducted ozone modeling to support the Tier II vehicle and low-sulfur fuel rules. The results of the modeling were documented in the report ''Technical Support Document for the Heavy Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements: Air Quality Modeling Analyses'' (EPA 420–R–00–028). IDEM reviewed these documented modeling results, and notes that this modeling study shows that the ozone impacts of the subject emission controls, as well as the impacts of the NO_X SIP call, are significant in Lake and Porter Counties. IDEM used these modeling results to determine the relative impacts on peak ozone concentrations in this area during 2007 and 2020. The modeling results indicate that the monitoring site ozone design values in Lake County would be lowered to a range of 0.069 ppm to 0.071 ppm (depending on the monitor) in 2007. Similar ozone design values are indicated for 2020, although slightly reduced due to the impacts of more years of implementation of the emission controls.

EPA Ozone Modeling for the Clean Air Interstate Rule

EPA conducted ozone modeling to assess the ozone impacts resulting from the NO_X emission reduction expected to be produced by the CAIR. Modeling was conducted for 2010 and 2015. Results of the CAIR modeling show that Lake and Porter Counties will have attained the ozone NAAQS in 2010, with a peak modeled 8-hour concentration below 0.085 ppm. With additional NO_X emission reduction projected through 2015, the modeling shows that monitoring site ozone design values will further decrease through 2015. This supports maintenance of the ozone standard in Lake and Porter through 2015.

LADCO Updated Round 4 Ozone Modeling

LADCO recently completed updated ozone modeling using the CAMx model for ozone and the most current emissions inventories and model updates and inputs. This modeling was performed to support ozone attainment demonstrations for the LADCO States. The Round 4 modeling included scenarios considering the ''on-the-books'' emission controls for future years, 2009 and 2012. Note that the State of Indiana is developing a rule to implement CAIR requirements. Using the relative change in the peak ozone concentrations indicated by the Round 4 modeling along with the 2003–2005 ozone design value, IDEM derived future ozone design values for 2009 and 2012 for the Lake and Porter Counties' monitoring sites. All estimated ozone design values for 2009 and 2012 are well below the ozone standard. This implies that the ''on-the-book'' emissions controls will help to maintain the ozone standard in Lake and Porter Counties.

B. Temperature—Ozone Exceedance Frequency Study

IDEM analyzed the 1995–2005 trend in the annual number of days with peak daytime temperatures equaling or

exceeding 90 degrees Fahrenheit versus the annual number of 8-hour ozone standard exceedances at various monitoring sites. Although ozone standard exceedance numbers showed some correlation to the annual number of high temperature days, IDEM noted that this correlation is changing. While the trend in the annual number of high temperature days shows no distinct trend, the annual number of ozone standard exceedances is showing a downward trend. IDEM attributes the difference in trends to the impacts of VOC and NO_X emission controls. Based on this observation, IDEM attributes the improvement in ozone air quality to the implementation of emission controls.

VIII. Review of Indiana's 2002 Base Year Emissions Submittal

The CAA gives the States the responsibility to inventory emissions contributing to the violation a NAAQS, to track these emissions over time, and to ensure that emission control strategies have been implemented and have achieved planned emission targets. States containing ozone nonattainment areas are required, under section 182(a)(1) of the CAA, to submit comprehensive, accurate, and current base year inventories of actual ozone precursor emissions (emissions of VOC, NO_X, and CO) for each ozone nonattainment area. These emission inventories must include emissions from point, area, on-road mobile, and non-road mobile man-made (anthropogenic) and biogenic (natural or plant-generated) sources in the ozone nonattainment areas. The States must also inventory facility-specific emissions for major source facilities. The emission inventories must specify emissions for typical summer weekdays.

Two EPA guidance documents have been developed to cover the emissions reviewed here. First, a November 18, 2002 memorandum (''2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, $PM_{2.5}$ and Regional Haze Programs,'' memorandum from Lydia N. Wegman, Director, Air Quality Strategies and Standards Division, and Peter Tsirigotis, Director, Emissions, Monitoring, and Analysis Division, to Regional Air Division Directors) established 2002 as the base year to be used in the current round of ozone, fine particulates ($PM_{2.5}$), and haze control planning. Second, SIP emissions inventory guidance, including guidance specific to the base year emissions, is given in an August 2005 EPA guidance document, (''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/R–05–001).

On March 26, 2007, IDEM submitted documentation of 2002 statewide emissions of VOC, NO_X, and CO in response to an EPA request for the documentation of the base year emissions for Lake and Porter Counties. The 2002 statewide emissions, documented by county, were prepared to comply with EPA's Consolidated Emissions Reporting Rule (CERR), published on June 10, 2002 (67 FR 39602) (40 CFR part 51 subparts A and Q). Also included with the March 26, 2007 submittal was a compact disk containing detailed emissions data, including input data used to calculate the emissions.

Emissions contained in the March 26, 2007 submittal cover the general source categories of point sources, area sources, on-road mobile sources, non-road mobile sources, and biogenic sources. All emission summaries were accompanied by source-specific descriptions of emission calculation procedures and sources of input data along with sample calculations for various counties in the State.

To determine point source emissions, the State relied on data collected from source facilities complying with the State's annual emissions reporting requirements, 326 IAC 2–6. Major sources of any criteria pollutant located anywhere in the State of Indiana are required to annually submit to the State data specifying their annual emissions of criteria pollutants along with seasonal information to allow the calculation of seasonal emissions. Emissions for any particular year are to be reported by April 15th of the following year. In Elkhart, Floyd, Lake, Marion, Porter, St. Joseph, and Vanderburgh Counties, sources with the potential to emit more than 10 tons per year of VOC or NO_X must report annually. In other portions of the State, the reporting source size emissions cutoff is 100 tons per year.

Point source emissions reporting submittals are checked by IDEM to assure completeness. If the data are determined to be complete, the emissions data are loaded into the State's emissions database. IDEM also reviews the data for quality assurance, and, if needed, sources are requested to correct the data. After completing data quality assurance, the point source data are submitted to the EPA for incorporation into the National Emissions Inventory (NEI), as required by the CERR. The March 26, 2007 submittal includes VOC, NO_X, and CO emissions for each reporting facility statewide. The supplied data files document a number of source-specific data used to determine the source-specific emissions.

Area source emissions were calculated using a variety of information sources and guidance from the EPA. A primary source of calculation procedures and applied guidance was EPA's Emission Inventory Improvement Program. Where appropriate, point source emissions were subtracted from the calculated area source emissions to account for source coverage overlap with the reported point source emissions and to avoid double counting of emissions in the emissions totals. The documentation supplied in the March 26, 2007 submittal shows how the county-specific emissions were calculated for each area source category. County-specific source surrogates and associated emission factors were generally used to calculate county-specific emissions. Samples of area source emission calculations were provided for selected Counties. Area source emissions for all 92 Indiana Counties were documented in the March 26, 2007 submittal and in the data files included in the accompanying data disk.

The September 12, 2006 ozone redesignation request included a detailed description of the procedures and input data used to determine the mobile source emissions for Lake and Porter Counties for 2002, as well as for emission projections used to document attainment year and maintenance period mobile source VOC and NO_X emissions (see the discussion of mobile source emissions and emission budgets for Lake and Porter Counties, above). The March 26, 2007 base year emissions submittal documents the mobile source VOC, CO, and NO_X emissions for each of the counties in the State. The March 26, 2007 submittal notes that the mobile source emissions for Lake and Porter Counties were derived by the Northwest Indiana Regional Planning Commission, whereas the mobile source emissions for all other counties were obtained from EPA's NEI.

Non-road mobile source VOC, NO_X, and CO emissions for 2002 were generated by the National Mobile Inventory Model. To update and quality assure the emissions for locomotives, commercial and recreational marine sources, and off-road mobile equipment sources, LADCO contracted with several consultants to update source population and distribution levels. Summaries of the consultants' results and recommended emissions changes were included in the March 26, 2007 submittal. This submittal documented non-road mobile VOC, NO_X, and CO

emissions by county for all 92 Counties in Indiana.

Biogenic VOC, NO_X, and CO emissions for 2002 were taken directly from the NEI for each county in Indiana.

The March 26, 2007 submittal documents 2002 VOC, CO, and NO_X emissions for each Indiana county in units of tons per year and tons per summer day. The 2002 summer day emissions of VOC, NO_X, and CO for Lake and Porter Counties are summarized in Table 7.

TABLE 7.—2002 OZONE PRECURSOR EMISSIONS IN LAKE AND PORTER COUNTIES, INDIANA—EMISSIONS IN TONS PER SUMMER DAY

Source category	VOC	NO_X	CO
Lake County			
Point	19.88	106.33	466.11
Area	24.78	4.37	3.93
On-Road Mobile	15.35	40.15	186.39
Non-Road Mobile	20.18	28.82	176.98
Biogenic	18.59	0.79	1.91
Total	98.78	180.46	835.32
Porter County			
Point	4.70	80.11	405.01
Area	7.49	1.35	1.35
On-Road Mobile	4.85	14.95	63.66
Non-Road Mobile	12.80	11.37	73.19
Biogenic	15.15	0.63	1.63
Total	44.99	108.41	544.84

Although the state did not hold a separate public hearing on the 2002 base year inventory, the 2002 emissions for Lake and Porter County were the primary source of emissions data used to project the attainment year (2004) and maintenance period (2010 and 2020) VOC and NO_X emissions discussed in the State's September 12, 2006 ozone redesignation request, which was subject to public hearing. Since this ozone redesignation request and ozone maintenance plan, including the 2002 VOC and NO_X emission totals for Lake and Porter Counties, were discussed during a public hearing we believe that the 2002 base year VOC and NO_X emissions for Lake and Porter Counties have been addressed by a public hearing.

We find the documentation of the 2002 base year VOC, NO_X, and CO emissions to be acceptable, and we are proposing here to approve the 2002 base year emissions inventories for Lake and Porter Counties as a revision of the Indiana SIP.

IX. What Are EPA's Proposed Actions?

EPA is proposing to determine that the Chicago-Gary-Lake County, IL-IN 8-hour ozone nonattainment area has attained the 8-hour ozone NAAQS and is also proposing to approve Indiana's request to redesignate the Lake and Porter County, IN portion of the area to attainment for the 8-hour ozone standard. EPA has evaluated the State of Indiana's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. Final approval of the redesignation request would change the official designation of Lake and Porter Counties for the 8-hour ozone NAAQS, found at 40 CFR part 81, from nonattainment to attainment. EPA is also proposing to approve Indiana's ozone maintenance plan for Lake and Porter Counties as a revision to the Indiana SIP because it meets the requirements of section 175A of the CAA. Final approval would thus also incorporate into the Indiana SIP a plan for maintaining the ozone NAAQS through 2020. The maintenance plan includes contingency measures to remedy possible future violations of the 8-hour ozone NAAQS, and establishes MVEBs of 6.00 tons per day for VOC and 12.60 tons per day for NO_X for 2020 and also MVEBs of 11.5 tons per day for VOC and 40.6 tons per day of NO_X for 2010. EPA is proposing to approve these MVEBs.

EPA is also proposing to approve into the Indiana SIP the VOC and NO_X periodic inventories for 1999, 2002 and 2004, pursuant to section 182(a)(3)(A) under the 1-hour standard as well as the 2002 base year VOC and NO_X emission inventories for Lake and Porter Counties, pursuant to section 182(a)(1) under the 8-hour standard.

EPA is also proposing to find that, if the 1-hour ozone standard is deemed to be reinstated, the Chicago-Gary-Lake County area has attained the 1-hour standard, and Lake and Porter Counties have met the requirements for and would also qualify for redesignation to attainment of the 1-hour ozone standard. Thus, EPA proposes to find that if the 1-hour standard is reinstated, EPA would redesignate the area to attainment for the 1-hour standard. EPA further proposes to approve and to find that Indiana's maintenance plan for the 8-hour standard also provides for maintenance of the 1-hour standard.

X. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

This proposed action merely proposes to approve 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 CAA does not impose any new requirements on small entities. Redesignation of an area to attainment 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 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.*).

Unfunded Mandates Reform Act

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 (Pub. L. 104–4).

Executive Order 13132: Federalism

This proposed action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to affect the status of a geographical area does not impose any new requirements on sources, and to approve state rules, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will 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).

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it proposes approval of a state rule implementing a federal standard.

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

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant regulatory action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the CAA. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Executive Order 12898: Environmental Justice

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency actions by directing agencies to identify and address, as appropriate, disproportionately high and adverse human health of environmental effects of their programs, policies, and activities on minority and low-income populations. Today's proposed actions would not result in the relaxation of control measures on existing sources and therefore would not cause emissions increases from those sources. Overall, emissions in the area are projected to decline following redesignation. Thus, these proposed actions would not have disproportionately high and adverse effects on any communities in the area, including minority and low-income communities.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

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

Dated: May 11, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E7–9825 Filed 5–30–07; 8:45 am]

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Vol. 72, No. 104

Thursday, May 31, 2007

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Privacy Act Compilation	**741–6064**
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TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, MAY

23761–24176 1
24177–24522 2
24523–25188 3
25189–25676 4
25677–25944 7
25945–26280 8
26281–26532 9
26533–26708 10
26709–27052 11
27053–27240 14
27241–27406 15
27407–27720 16
27721–27948 17
27949–28448 18
28449–28582 21
28583–28824 22
28825–29054 23
29055–29236 24
29237–29428 25
29429–29836 29
29837–30238 30
30239–30456 31

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

801 30239
2200 28825
3513 30243

3 CFR

Proclamations:
8133 24173
8134 24175
8135 24177
8136 25181
8137 25183
8138 25185
8139 25187
8140 26705
8141 27240
8142 27401
8143 27403
8144 27405
8145 28445
8146 29047
8147 29049
8148 29051
8149 30237
Executive Orders:
12866 (See 13432) 27717
13303 (See Notice of May 18, 2007 28581
13047 (See Notice of May 17, 2007) 28447
13310 (See Notice of May 17, 2007) 28447
13315 (See Notice of May 18, 2007 28581
13338 (See Notice of May 8, 2007) 26707
13350 (See Notice of May 18, 2007 28581
13364 (See Notice of May 18, 2007 28581
13339 (See Notice of May 18, 2007 28581
13364 (See Notice of May 18, 2007 28581
13399 (See Notice of May 8, 2007) 26707
13423 (See 13432) 27717
13431 26709
13432 27717
13433 28441
13434 28583
Administrative Orders:
Notices:
Notice of May 8, 2007 26707
Notice of May 17, 2007 28447
Notice of May 18, 2007 28581
Presidential Determinations:
No. 2007–17 of April 25, 2007 26281
No. 2007–18 of May 9, 2007 29053
No. 2007–19 of May 10, 2007 29427

5 CFR

Ch. LXIV 26533
Proposed Rules:
315 23772
752 23772

7 CFR

46 29837
210 24179
220 24179
225 24179
226 24179
246 24179
247 24179
251 24179
301 ..... 27949, 28827
319 26711
457 ..... 24523, 29055
800 27407
801 27407
916 25945
917 25945
925 29839
959 25677
966 24530
981 29055
982 23761
1703 29841
4279 27241
4280 29841
Proposed Rules:
205 27252
400 27981
457 28895
810 23775
925 24551
929 23777
930 24553
955 25207
1000 25986
1001 25986
1005 25986
1006 25986
1007 25986
1030 25986
1032 25986
1033 25986
1124 25986
1126 25986
1131 25986
1210 26005
1485 28901
1738 26742
1924 27470
1944 27988
3551 27988

8 CFR

103.....29851

9 CFR

205.....25947

Proposed Rules:

1.....28902
149.....27656
160.....27656
161.....27656
381.....26567

10 CFR

1.....28449
11.....27408
25.....27408
72.....26535

Proposed Rules:

1.....28455
26.....27766
50.....28902
51.....27068
60.....27766
63.....27766
72.....26568
73.....27766
74.....27766
609.....27471

11 CFR

Proposed Rules:

106.....26569

12 CFR

229.....27951
413.....30243
509.....25948
585.....25948
701.....30245
703.....30245
707.....30245
710.....30245
722.....30245
723.....30245
742.....30245

13 CFR

120.....25189

14 CFR

39 .....23765, 25957, 25960, 26283, 26285, 26538, 26711, 26714, 26716, 27721, 27723, 27725, 27730, 27953, 28587, 28589, 28591, 28593, 28594, 28597, 28827, 28830, 28832, 29237, 29239, 29241, 29245, 29874, 29879, 29881, 29883, 30247, 30249, 30251
71 .....23767, 23768, 25962, 25963, 26287, 27053, 27054, 27412, 27413, 27415, 27416, 27417, 27418, 27420, 27421, 29056, 29884, 30253
97 .....23769, 27241, 27422, 30254, 30256
121.....26540
135.....26540
158.....28837
401.....27732
415.....27732
431.....27732
435.....27732
440.....27732
460.....27732

Proposed Rules:

1.....25207
33.....25207
39 .....26008, 27489, 27491, 27493, 27497, 27766, 27768, 28003, 28005, 28456, 28458, 28459, 29082, 29084, 29086, 29088, 29091, 29278, 29280, 29282, 29446, 29447, 29449, 29452, 29895, 30300
71 .....25712, 28622, 28623, 28624, 28626, 28627, 28629, 28630, 29455
91.....28820
105.....28820
217.....27770
234.....27771
241.....27770
248.....27770
250.....27770
291.....27770
298.....27770
374a.....27770

15 CFR

4.....30258
705.....25194
730.....25194
736.....25194
744.....25194
747.....25194
754.....25194
756.....25194
760.....25194
766.....25194
768.....25194
770.....25194
772.....25194, 25680
774.....25680
922.....29208

16 CFR

4.....28851

Proposed Rules:

24.....28906
259.....26328

17 CFR

2.....29246

Proposed Rules:

240.....28908

18 CFR

292.....29056

Proposed Rules:

35.....23778

19 CFR

10.....29247
123.....25965

20 CFR

404.....27424
416.....27424
498.....27425
656.....27904

21 CFR

510 .....24184, 26288, 27955
520 .....24185, 27733, 27955
522 .....27733, 27734, 27956
529.....26289
866.....26290
1313.....28601
1308.....24532

Proposed Rules:

878.....26011

22 CFR

126.....28602
303.....27055

Proposed Rules:

62.....30302

24 CFR

3280.....27222
3282.....27222
3288.....27222
1000.....29738

Proposed Rules:

203.....27048
320.....25926
350.....25926
982.....29744
983.....24080

26 CFR

1 .....23771, 26542, 28604, 28854
602.....24678

Proposed Rules:

1 .....24192, 26011, 26012, 26576, 26689, 29456

28 CFR

Proposed Rules:

16.....26037

29 CFR

4022.....27243
4044.....27243

Proposed Rules:

1910.....27771
1915.....27771
1917.....27771
1918.....27771
4006.....30308
4007.....30308

30 CFR

75.....28796
202.....24448
203.....25197
206.....24448
210.....24448
217.....24448
218.....24448
250.....25197
251.....25197
260.....25197
914.....28451
935.....26291

Proposed Rules

203.....28396
260.....28396
Ch. VII.....27069
946.....26329
948.....27782

31 CFR

593.....28855

32 CFR

234.....29250
635.....29063

Proposed Rules:

216.....25713
571.....26576

33 CFR

100 .....25202, 25685, 25966, 27735, 28607, 30258, 30261
117 .....24534, 25203, 28609, 29885, 30263
151.....27738
165 .....23771, 24185, 24534, 25686, 25966, 26296, 26298, 27244, 27740, 28864, 29254, 30264, 30266, 30268, 30270

Proposed Rules:

100 .....25214, 27499, 28631, 28634
110.....29092, 29095
117.....26038, 27264
165 .....23779, 23781, 24196, 25217, 25219, 25226, 25720, 27070

34 CFR

Proposed Rules:

75.....29097
200.....25228
303.....26456, 28007

36 CFR

242.....25688
1258.....29429

Proposed Rules:

7.....27499
261.....26578
1193.....26580
1194.....26580

37 CFR

6.....28610
380.....24084, 29886

38 CFR

2.....27246
36.....30239
39.....30239
44.....30239
48.....30239
49.....30239
51.....30239

Proposed Rules:

1.....25930
5.....28770
14.....25930
19.....25930
20.....25930

39 CFR

111.....26543, 29256

Proposed Rules:

111.....28908, 29100
3001.....29284

40 CFR

9.....24496, 26544
35.....24496
49.....25698
50.....28612
51.....24060
52 .....24060, 25203, 25967, 25969, 25971, 25973, 25975, 26718, 27056, 27060, 27247, 27425, 27640, 27644, 27648, 27652, 27957, 28866, 29075, 29269, 29273, 29429, 29886, 30272, 30275
60.....27437
61.....27437
62.....25978
63 .....25138, 25980, 27437
70.....24060

71 24060
80 23900
81 ..... 25967, 26718, 27060, 27247, 27425, 27640, 27644, 27648, 27652
82 30142
112 27443
174 26300
180 ..... 24188, 26304, 26310, 26317, 26322, 27448, 27452, 27456, 27460, 27463, 28868, 28871, 28877, 28881
300 29276
372 26544

Proposed Rules:
51 ..... 24472, 26202
52 ..... 23783, 25241, 26040, 26045, 26046, 26057, 26202, 26581, 26759, 27265, 27787, 29101, 29287, 29897, 29901, 29914, 30319, 30436
55 30320
60 ..... 27178, 28098
62 26069
63 ..... 26069, 28098, 29287
81 ..... 23783, 26046, 26057, 26581, 26759, 27265, 29901, 29914, 30436
82 30168
85 28098
89 28098
90 28098
91 28098
93 24472
122 26582
131 27789
141 24016
152 28911
156 28911
167 28911
168 28911
169 28911
172 28911
174 28911
180 ..... 24198, 28912, 28920
412 26582
601 29102
1027 28098
1045 28098
1048 28098
1051 28098
1054 28098
1060 28098
1065 28098
1068 28098
1074 28098

41 CFR

Proposed Rules:
101-42 25723
101-45 25723
102-40 25723

42 CFR

412 26870
413 26870
433 29748
447 29748
457 29748

Proposed Rules:
411 24680
412 ..... 24680, 26230
413 ..... 24680, 25526
418 24116
422 29368
423 ..... 29368, 29403
438 28930
447 28930
484 ..... 25356, 26887
489 24680

43 CFR

3000 24358
3200 24358
3280 24358

Proposed Rules:
3130 28636

44 CFR

65 ..... 27741, 28613
67 ..... 27752, 28617

45 CFR

98 27972
2541 28825
2542 28825
2545 28825

Proposed Rules:
5b 29289

46 CFR

Proposed Rules:
2 28650
8 28650
189 28650

47 CFR

1 27688
15 ..... 26554, 28889, 28894
20 27688
27 27688
73 ..... 24190, 24191, 29889
90 27688

Proposed Rules:
Ch. 1 29928
1 ..... 24213, 27519
15 29929
20 27519
27 ..... 24238, 29930
43 27519
54 28936
73 ..... 26331, 26332

48 CFR

Ch. 1 ..... 27364, 27397
1 27364
2 27364
4 27364
7 27364
14 27364
15 27364
16 27364
17 27364
18 27364
19 27364
22 27364
28 27364
31 27364
32 27364
35 27364
37 27364
41 27364
42 27364
43 27364
44 27364
45 27364
46 27364
49 27364
51 27364
52 27364
53 27364
209 30278
215 30278
225 30278
249 30278
252 30278
913 29431
970 ..... 29077, 29431
1804 26560
1852 26560
3001 24536
3002 24536
3033 24536

Proposed Rules:
12 24554
23 24554
42 24554
52 24554
Ch. 2 28654
207 28662
215 28663
232 28663

49 CFR

107 24536
171 25162
172 25162
173 25162
175 25162
176 25162
531 28619
571 25484
579 29435
585 25484

Proposed Rules:
195 28008
367 29472
571 ..... 27535, 28939, 30324

50 CFR

17 30279
100 25688
223 26722
622 ..... 27251, 29444
635 ..... 26735, 30297
648 ..... 25709, 26325, 26563, 29889
660 ..... 24539, 27064, 27759, 29208, 29891
665 27065
679 ..... 27067, 27980, 28620, 29893

Proposed Rules:
17 ..... 24253, 28016, 28664, 29933, 30326
648 ..... 25735, 26770
660 27276
665 26771
679 ..... 27798, 30052

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 31, 2007

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Grapes grown in southeastern California; published 5-30-07

Hazelnuts grown in Oregon and Washington; published 5-1-07

COMMERCE DEPARTMENT

Freedom of Information Act; implementation; published 5-31-07

DEFENSE DEPARTMENT

Defense Acquisition Regulations System

Acquisition regulations:

Technical amendments; published 5-31-07

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Ohio; published 5-25-07

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Oklahoma; published 5-2-07

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Technical amendments; published 5-31-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Reims Aviation S.A.; published 4-26-07

Standard instrument approach procedures; published 5-31-07

VETERANS AFFAIRS DEPARTMENT

Grants and assistance:

Nonprocurement debarment and suspension; OMB guidance; implementation; published 5-31-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Apricots grown in Washington; comments due by 6-4-07; published 4-4-07 [FR E7-06224]

Grapes grown in Southeast California; comments due by 6-4-07; published 5-3-07 [FR E7-08458]

Onions grown in South Texas; comments due by 6-8-07; published 4-9-07 [FR 07-01749]

Raisins produced from grapes grown in California; comments due by 6-8-07; published 4-9-07 [FR E7-06530]

AGRICULTURE DEPARTMENT

Rural Housing Service

Grants:

Farm Labor Housing and Rural Rental Housing Programs; reserve account requirements; comments due by 6-4-07; published 4-5-07 [FR E7-06287]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands salmon; comments due by 6-4-07; published 4-18-07 [FR E7-07380]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Arizona Department of Environmental Quality and Nevada Division of Environmental Protection; delegation status; CFR listing update; comments due by 6-7-07; published 5-8-07 [FR E7-08686]

Arizona Department of Environmental Quality and Nevada Division of Environmental Protection; delegation status; comments due by 6-7-07; published 5-8-07 [FR E7-08681]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Various States; comments due by 6-7-07; published 5-8-07 [FR E7-08798]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Indiana; comments due by 6-7-07; published 5-8-07 [FR E7-08772]

Pennsylvania; comments due by 6-7-07; published 5-8-07 [FR E7-08669]

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 6-7-07; published 5-8-07 [FR E7-08689]

Iowa; comments due by 6-7-07; published 5-8-07 [FR E7-08665]

Missouri; comments due by 6-4-07; published 5-4-07 [FR E7-08560]

Nevada; comments due by 6-7-07; published 5-8-07 [FR E7-08695]

Pesticide programs:

Plant-incorporated protectorants; procedures and requirements—

Bacillus thuringiensis Vip3Aa20 protein and genetic material necessary for production in corn; tolerance exemption; comments due by 6-4-07; published 4-4-07 [FR E7-06256]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Diphenylamine; comments due by 6-4-07; published 4-4-07 [FR E7-05804]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Federal-State Joint Board on Universal Service—

High-cost universal service support; comments due by 6-6-07; published 5-23-07 [FR E7-09837]

Wireless telecommunication services—

700 MHz spectrum service rules; Google proposals; comments due by 6-6-07; published 5-30-07 [FR E7-10417]

GENERAL SERVICES ADMINISTRATION

Federal Management Regulation:

Personal property with special handling requirements; disposition; comments due by 6-6-07; published 5-7-07 [FR E7-08670]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

General and plastic surgery devices—

Absorbable hemostatic device; reclassification; comments due by 6-7-07; published 5-8-07 [FR E7-08784]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Connecticut; comments due by 6-4-07; published 4-3-07 [FR E7-06144]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Chicago Harbor, Chicago, IL; comments due by 6-6-07; published 5-7-07 [FR E7-08605]

Chicago Harbor, IL; comments due by 6-4-07; published 5-4-07 [FR E7-08608]

Lake Michigan Captain of Port Zone, WI; comments due by 6-4-07; published 5-4-07 [FR E7-08607]

Milwaukee Harbor, WI; comments due by 6-4-07; published 5-4-07 [FR E7-08614]

Mississippi River, LA; comments due by 6-4-07; published 4-5-07 [FR E7-06305]

Patapsco River, Northwest and Inner Harbors, Baltimore, MD; comments due by 6-8-07; published 4-9-07 [FR E7-06537]

Regattas and marine parades:

Lake Michigan Captain of Port zone marine events; comments due by 6-5-07; published 4-6-07 [FR E7-06425]

SBIP-Fountain Powerboats Kilo Run and Super Boat Grand Prix; comments due by 6-4-07; published 5-4-07 [FR E7-08509]

INTERIOR DEPARTMENT

Minerals Management Service

Outer Continental Shelf Lands Act; open and nondiscriminatory access to

oil and gas pipelines; comments due by 6-5-07; published 4-6-07 [FR E7-06197]

Outer Continental Shelf; oil, gas, and sulphur operations:

Oil and gas production requirements; comments due by 6-4-07; published 3-6-07 [FR E7-03846]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Virginia; comments due by 6-8-07; published 5-9-07 [FR E7-08868]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

APEX Aircraft; comments due by 6-4-07; published 4-30-07 [FR E7-07980]

Boeing; comments due by 6-4-07; published 4-3-07 [FR E7-05897]

Columbia Aircraft Manufacturing; comments due by 6-4-07; published 4-3-07 [FR E7-06011]

Empresa Brasileira de Aeronautica, S.A. (EMBRAER); comments due by 6-7-07; published 5-8-07 [FR E7-08761]

Honeywell Flight Management Systems; comments due by 6-4-07; published 4-3-07 [FR E7-05896]

Mitsubishi Heavy Industries; comments due by 6-4-07; published 4-3-07 [FR E7-06121]

Area navigation routes; comments due by 6-7-07; published 4-23-07 [FR E7-07633]

Class E airspace; comments due by 6-8-07; published 5-9-07 [FR 07-02210]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Construction quality assurance procedures—

Roadside safety hardware acceptance; crash test laboratory accreditation requirements; comments due by 6-8-07; published 4-9-07 [FR E7-06533]

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Practice and procedure:

Emergency Relief Dockets establishment and emergency safety regulations waiver petitions handling procedures; comments due by 6-8-07; published 4-9-07 [FR 07-01667]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Insurer reporting requirements:

Insurers required to file reports; list; comments due by 6-8-07; published 4-9-07 [FR E7-06519]

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Carrier rates and service terms:

Contract definition and interpretation; comments due by 6-4-07; published 4-4-07 [FR E7-06215]

TREASURY DEPARTMENT

Internal Revenue Service

Procedure and administration:

Agreements for tax liability installment payments; withdrawn; comments due by 6-4-07; published 3-5-07 [FR E7-03730]

VETERANS AFFAIRS DEPARTMENT

Veterans Benefits, Health Care, and Information Technology Act of 2006; implementation:

Accreditation of agents and attorneys; agent and attorney fees; comments due by 6-6-07; published 5-7-07 [FR E7-08642]

LIST OF PUBLIC LAWS

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H.R. 2206/P.L. 110–28

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (May 25, 2007; 121 Stat. 112; 107 pages)

Last List May 10, 2007

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