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

WHEN: Tuesday, August 12, 2008
9:00 a.m.–12:30 p.m.

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. AO–214–A7; AMS–FV–07–0050; FV07–981–1]

Almonds Grown in California; Order Amending Marketing Order No. 981

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the marketing order for almonds grown in California. The amendments were proposed by the Almond Board of California (Board), which is responsible for local administration of the order. The amendments will authorize the establishment of different outgoing quality requirements for different markets and authorize the establishment of bulk container marking and labeling requirements. The amendments are intended to provide additional flexibility in administering the quality control provisions of the order and provide the industry with additional tools for the marketing of almonds.

DATES: This rule is effective August 5, 2008.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, California 93721; Telephone: (559) 487–5110, Fax: (559) 487–5906, or E-mail: *Martin.Engeler@usda.gov*; or Laurel May, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Laurel.May@usda.gov.*

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on June 29, 2007, and published in the July 6, 2007, issue of the **Federal Register** (72 FR 36900); a Recommended Decision issued on December 21, 2007, and published in the December 28, 2007, issue of the **Federal Register** (72 FR 73671); and a Secretary's Decision and Referendum Order issued on February 27, 2008, and published in the March 3, 2008, issue of the **Federal Register** (73 FR 11360).

This action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

Preliminary Statement

This final rule was formulated on the record of a public hearing held on August 2, 2007, in Modesto, California. Notice of this hearing was issued on June 29, 2007, and published in the July 6, 2007, issue of the **Federal Register** (72 FR 36900). The hearing was held to consider the proposed amendment of Marketing Order No. 981, hereinafter referred to as the ''order''.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The Notice of Hearing contained two amendment proposals submitted by the Almond Board of California (Board), which is responsible for local administration of the order. Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on December 21, 2007, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by January 17, 2008. No exceptions were filed.

A Secretary's Decision and Referendum Order was issued on February 27, 2008, directing that a referendum be conducted during the period March 24 through April 11, 2008, among almond growers to determine whether they favored the proposed amendments to the order. To become effective, the amendments had to be approved by at least two-thirds of those producers voting or by voters representing at least two-thirds of the volume of almonds represented by voters in the referendum. Each of the two proposed amendments were favored by at least 80 percent of the voters voting in the referendum.

The amendments approved by voters and included in this order will:

1. Authorize the establishment of different outgoing almond quality requirements for different markets; and

2. Authorize the establishment of container marking and labeling requirements.

The U.S. Department of Agriculture (USDA) also proposed to allow such changes as may be necessary to the order so that all of the order's provisions conform to the effectuated amendments. None were deemed necessary.

An amended marketing agreement was subsequently provided to all almond handlers in the production area for their approval. The marketing agreement was not approved by handlers representing at least 50 percent of the volume of almonds handled by all handlers during the representative period of August 1, 2006, through July 31, 2007.

Small Business Consideration

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Small agricultural service firms, which include handlers regulated under the order, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual

receipts of less than $6,500,000. Small agricultural producers have been defined as those with annual receipts of less than $750,000.

There are approximately 104 handlers of almonds subject to regulation under the order and approximately 6,000 producers of almonds in the regulated area. Information provided at the hearing indicates that approximately 50 percent of the handlers would be considered small agricultural service firms. According to data reported by the National Agricultural Statistics Service (NASS), the two-year average crop value for 2005–06 and 2006–07 was $2.283 billion. Dividing that average by 6,000 producers yields average estimated producer revenues of $380,500, which suggests that the majority of almond producers would also be considered small entities according to the SBA's definition.

The order regulates the handling of almonds grown in the state of California. The California almond bearing acreage increased nearly 40 percent between 1996 and 2006, from 418,000 to 585,000 acres. Approximately 1.115 billion pounds (shelled basis) of almonds were produced during the 2006–07 season. Bearing acreage for the 2007–08 season is estimated to be 615,000 acres. NASS has forecasted that the 2007–08 crop will reach 1.330 billion pounds (shelled basis). More than two thirds of California's almond crop is exported to approximately 90 countries worldwide, and comprises nearly 80 percent of the world's almond supply.

Under the order, incoming and outgoing quality regulations are established, statistical information is collected, production research projects are conducted, and marketing research and generic promotion programs are sponsored. Program activities administered by the Board are designed to support large and small almond producers and handlers. The 10-member Board is comprised of both producer and handler representatives from the production area. Board meetings where regulatory recommendations and other decisions are made are open to the public. All members are able to participate in Board deliberations, and each Board member has an equal vote. Others in attendance at meetings are also allowed to express their views.

The Board's Food Quality and Safety Committee discussed the need for amendments to the order at meetings held on May 12, 2005; July 20, 2005; and November 1, 2006. The Board approved language for two proposed amendments to the order at their meeting on November 28, 2006. During a conference call on February 27, 2007, the Board confirmed that the two amendments should be proposed to USDA. The views of all participants were considered throughout this process.

In addition, the hearing to receive evidence on the proposed changes was open to the public and all interested parties were invited and encouraged to participate and provide their views.

The amendments are intended to provide the Board and the industry with additional flexibility in the marketing of California almonds. Record evidence indicates that the amendments are intended to benefit all producers and handlers under the order, regardless of size. There are no cost implications for handlers or growers from adding the new order authorities. Costs of implementation will be incurred only if specific additional requirements are established following future informal rulemaking. All grower and handler witnesses supported the amendments and commented on the implications of implementing specific requirements in the future. In that context, witnesses stated that they expected the benefits to be substantial and the costs of any future requirements to be minimal.

A description of the amendments and their anticipated economic impact on small and large entities is discussed below.

Proposal 1—Adding the Authority To Establish Different Outgoing Quality Requirements for Different Markets

The record shows that the amendment adding authority to establish different outgoing quality requirements for different markets will, in itself, have no economic impact on producers or handlers of any size. Regulations implemented under that authority could impose additional costs on handlers required to comply with them. However, witnesses testified that establishing mandatory regulations for different markets could increase the industry's credibility and reduce the risk that shipments of substandard product could jeopardize the entire industry's reputation. Record evidence shows that any additional costs are likely to be offset by the benefits of complying with those requirements.

Witnesses cited decreased delays and demurrage charges, as well as fewer rejected loads and increased customer confidence, as expected benefits. Recently, almonds have been rejected in the EU due to aflatoxin levels exceeding its importing tolerances. Information provided at the hearing shows that the rejection of a 44,000 pound container of almonds in the EU costs about $10,000, or 22.7 cents per pound. The cost includes demurrage for unanticipated delays at port, warehousing product while awaiting official import testing results, shipping rejected almonds back to the U.S., and shipping a replacement container back to the EU.

To reduce the risk of rejections, the California almond industry developed a voluntary aflatoxin testing protocol. Witnesses estimated that the cost of the pre-export testing, including the value of the sample, analytical fees, courier fees, and sampling labor is less than 2 cents per pound, which is less than 10 percent of the cost associated with a rejection. Proponents testified that if a requirement that all almonds destined for the EU be tested prior to shipment was established under authority provided by the order amendment, handlers would incur the cost of testing, but those costs would be expected to be more than offset by the reduced risk of rejections.

It's likely that most handlers are already complying with their customers' specific market requirements on a voluntary basis as a part of doing business, but witnesses explained that mandatory requirements lend credibility to the entire industry. In addition, such requirements could reduce the risk that one shipment of substandard product would jeopardize the entire industry's reputation.

Currently, outgoing quality requirements established under the order apply to all handler entities regardless of size. If regulations are established pursuant to this amendment, distribution of any increased costs between small and large entities would depend on the requirements established for the markets to which individual handlers shipped their almonds as well as the volume of almonds shipped to those markets. But increases in cost would be equitable to all entities because requirements for each market would be imposed uniformly on all handlers shipping to that market.

Witnesses explained that almonds are used in many different ways by the various markets. In Europe, almonds are widely used as marzipan and ingredients for baked goods, candy, and other dishes. In India and the Middle East, almonds are presented as gifts at holidays and weddings, and play a part in other cultural traditions. India imports large quantities of inshell almonds that are then processed by hand. The wide range of uses leads to a similarly wide array of customer requirements.

According to record testimony, handlers adapt their export methods to

satisfy customer requirements. One witness explained that it is often difficult for smaller handlers to stay informed of rapidly changing import regulations. The witness stated that small handlers in particular would benefit from the authority to establish different requirements for different markets by avoiding costly mistakes that could be associated with not understanding various market and import requirements. If regulations are established under this amendment, the Board will provide information about updated requirements to the industry.

Finally, one witness explained that having the ability under the order to establish different outgoing quality requirements for different markets will not restrict handlers' choices regarding which markets to supply. Rather, the provision will ensure that the important standards that differentiate markets will be consistently met by all handlers shipping to those markets.

Proposal 2—Adding the Authority To Establish Container Labeling and Marking Requirements

The second amendment adds § 981.43 to the order to provide general authority to establish container marking and labeling requirements. This amendment will allow the Board, through the informal rulemaking process, to recommend and establish uniform container marking and labeling regulations in response to evolving market requirements. Under previous order provisions, there is only very limited authority for container marking and labeling requirements.

Witnesses testified that the lack of this authority has hindered them from adapting quickly and appropriately to recent market situations. In one case described at the hearing, the industry was unable to implement container marking or labeling following recalls for possible *Salmonella* contamination. Witnesses stated that customer confidence in almond quality could have been reinforced if the necessary authority to establish marking and labeling requirements had been available. Such authority would have allowed the industry to prescribe labeling to clearly indicate which almonds had been treated to reduce risk of contamination.

The amendment will allow the industry to respond to evolving market needs as they develop by establishing uniform and consistent marking and labeling requirements. According to proponents, the ability to communicate important product information to customers in a uniform and consistent manner will be essential as the industry strives to maintain its position in the expanding global marketplace.

If regulations are implemented pursuant to this amendment, costs of complying with any regulations established thereunder will not be disproportionate to small businesses. Witnesses testified that applying labels and marks to almond containers is currently a common practice, and industry handlers already have container marking processes and equipment in place. Therefore, the costs associated with the addition of uniform marking or labeling requirements will be minimal for both small and large entities. The record shows that any costs will likely be offset by the benefits derived from being more responsive to market demands.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the order on small entities. The record evidence indicates that the amendments are intended to benefit all producers and handlers under the order, regardless of size. Further, the record shows that the costs associated with implementing regulations would be outweighed by the benefits expected to accrue to the California almond industry.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. These amendments are designed to enhance the administration and functioning of the order to the benefit the California almond industry.

Paperwork Reduction Act

Information collection requirements for part 981 are currently approved by the Office of Management and Budget (OMB), under OMB Number 0581–0178, Vegetable and Specialty Crops. Implementation of these amendments will not trigger any changes to those requirements. Should any such changes become necessary in the future, they will be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS 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.

Civil Justice Reform

The amendments to Marketing Order 981 stated herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. The amendments will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with an amendment.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United Sates in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

Order Amending the Order Regulating the Handling of Almonds Grown in California

Findings and Determinations

The findings and determinations set forth hereinafter are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to Marketing Order No. 981 (7 CFR part 981), regulating the handling of almonds grown in California.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby further amended, regulates the handling of almonds grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of almonds grown in the production area; and

(5) All handling of almonds grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional Findings.*

It is necessary and in the public interest to make these amendments effective not later than one day after publication in the **Federal Register**. A later effective date would unnecessarily delay implementation of the new amendments. These amendments should be in place as soon as possible as the new crop year begins August 1. Making the effective date one day after publication in the **Federal Register** will allow the industry to consider regulations implementing the new order authorities at the beginning of the new crop year, which would be beneficial to the industry.

(c) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping almonds covered by the order as hereby amended) who, during the period August 1, 2006, through July 31, 2007, handled 50 percent or more of the volume of such almonds covered by said order, as hereby amended, have not signed an amended marketing agreement; and,

(2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of August 1, 2006, through July 31, 2007 (which has been deemed to be a representative period), have been engaged within the production area in the production of such almonds, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum; and

(3) In the absence of a signed marketing agreement, the issuance of this amendatory order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers of almonds in the production area.

Order Relative to Handling of Almonds Grown in California

It is therefore ordered, that on and after the effective dates hereof, all handling of almonds grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of the proposed order further amending the order contained in the Secretary's Decision issued by the Administrator on February 27, 2008, and published in the **Federal Register** on March 3, 2008 (73 FR 11360), shall be and are the terms and provisions of this order amending the order and set forth in full herein.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

■ For the reasons set forth in the preamble, Title 7 of Chapter XI of the Code of Federal Regulations is amended by amending part 981 to read as follows:

■ 1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend paragraph (b) of § 981.42 by adding the following sentence before the last sentence to read as follows:

§ 981.42 Quality control.

* * * * *

(b) * * * The Board may, with the approval of the Secretary, establish different outgoing quality requirements for different markets. * * *

■ 3. Add a new § 981.43 to read as follows:

§ 981.43 Marking or labeling of containers.

The Board may, with the approval of the Secretary, establish regulations to require handlers to mark or label their containers that are used in packaging or handling of bulk almonds. For purposes of this section, *container* means a box, bin, bag, carton, or any other type of receptacle used in the packaging or handling of bulk almonds.

Dated: July 30, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–17827 Filed 8–1–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM390; Special Conditions No. 25–372–SC]

Special Conditions: Embraer S.A., Model ERJ 190–100 ECJ Airplane; Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A., Model ERJ 190–100 ECJ airplane. This airplane has a novel or unusual design feature, in that it features multiple electrical/electronic equipment bays that are located throughout the airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* September 3, 2008.

FOR FURTHER INFORMATION CONTACT: Stephen Happenny, FAA, Propulsion/Mechanical Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone 425–227–2147; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Background

Embraer S.A., made the original application for certification of the Model ERJ 190 on May 20, 1999. The Embraer application includes six different models, the initial variant being designated as the Model ERJ 190–100. The application was submitted concurrently with that for the Model ERJ 170–100, which received an FAA type certificate (TC) on February 20, 2004. Although the applications were submitted as two distinct TCs, the airplanes share the same conceptual design and general configuration. On July 2, 2003, Embraer S.A., submitted a request for an extension of its original application for the Model ERJ 190 series, with a new application date of May 30, 2001, for establishing the type certification basis. The FAA certification basis was adjusted to reflect this new application date. In addition, Embraer has elected to voluntarily

comply with certain 14 CFR part 25 amendments introduced after the May 30, 2001, application date.

On May 30, 2001, Embraer S.A., amended the application to include the Model ERJ 190–100 ECJ. The Model ERJ 190–100 ECJ is a derivative of the Model ERJ 190 which is approved under Type Certificate No. A57NM. The Model ERJ 190–100 ECJ is a low wing, transport-category airplane powered by two wing-mounted General Electric CF34–10E6 turbofan engines. The airplane is a 19 passenger regional jet with a maximum takeoff weight of 54,500 kilograms (120,151 pounds). The maximum operating altitude and speed are 41,000 feet and 320 knots calibrated air speed (KCAS)/0.82 MACH, respectively. The Model ERJ 190–100 ECJ design includes multiple electrical/electronic equipment bays that are located throughout the airplane.

Type Certification Basis

Under the provisions of § 21.101, Embraer S.A. must show that the Model ERJ 190–100 ECJ meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A57NM or the applicable regulations in effect on the date of application for the change to the Model ERJ 190–100 ECJ. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.''

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Model ERJ 190–100 ECJ because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model ERJ 190–100 ECJ must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Embraer S.A., Model ERJ 190–100 ECJ will incorporate the following novel or unusual design feature: Multiple electrical/electronic equipment bays located in the lower lobe and on the main deck of the airplane. These bays are an unusual design relative to those which have been previously certificated under 14 CFR part 25. The number and location of the electrical/electronic equipment bays on the Model ERJ 190–100 ECJ may contribute to an increased risk of smoke affecting passengers and crew.

Discussion

Section 25.855 contains the material standards and design considerations for cargo compartment interiors; the statement that each cargo compartment must meet one of the class requirements of § 25.857; and the flight tests which must be conducted for certification. Section 25.857 provides the standards for the various classes of transport category airplane cargo compartments including a smoke detector; means to shutoff the ventilating airflow; and a means to exclude hazardous quantities of smoke or fire extinguishing agent from penetrating into occupied areas of the airplane. Section 25.858 requires certain provisions be made for smoke detection. However, there are no requirements that address the following:

- Preventing hazardous quantities of smoke or extinguishing agent originating from the electrical/electronic equipment bays from penetrating into occupied areas of the airplane; or
- Installing smoke or fire detectors in electrical/electronic equipment bays.

Generally, transport category airplanes have one or two electrical/electronic equipment bays located in the lower lobe, adjacent to pressure regulator/outflow valves. If there were smoke in an electrical/electronic equipment bay, in most cases it is expected to be drawn toward the outflow valves and be discharged from the airplane without entering occupied areas. In the Model ERJ 190–100 ECJ, the electrical/electronic equipment bays are distributed throughout the airplane. Only those equipment bays located in the lower lobe of the airplane are considered to be adjacent to pressure regulator/outflow valves.

For this combination of electrical/electronic equipment bays distributed throughout the airplane the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding smoke detection and control of smoke penetration. Based upon its review of incidents of smoke in the passenger cabin, the FAA determined that an airplane with electrical/electronic equipment bays located below, on, and above the main deck of an airplane presents a greater risk of smoke penetration than older designs with electrical/electronic bays only in the lower lobe adjacent to pressure regulator/outflow valves.

In the event of a fire, airplanes with older designs rely upon ''trial and error'' to determine whether the source of fire or smoke is in the electrical/electronic equipment bay. Typically, this involves the pilots following approved procedures in the Airplane Flight Manual. Those procedures may involve shutting down power to the avionics equipment in one electrical/electronic equipment bay and reconfiguring the airplane's environmental control system (e.g., shutting down the recirculation fan) to see whether the amount of smoke in the flightdeck or passenger compartment is reduced or eliminated. If these actions do not eliminate the smoke, the flight crew may turn the power back on in the one electrical/electronic equipment bay, shut it off in the other equipment bay, and reconfigure the environmental control system again to see whether the smoke is now reduced or eliminated.

This approach may be acceptable for airplanes with no more than two electrical/electronic equipment bays, both located in the lower lobe. In that case, there are only two options: The smoke or fire in an electrical/electronic equipment bay is in either one or the other. However, for an airplane with electrical/electronic equipment bays located below, on, and above decks, this approach is not sufficient, because—in the time it takes to determine the source of smoke—a fire could spread and the quantity of smoke could increase significantly.

Furthermore, the ''trial and error'' approach raises concern over the lack of informational awareness that a flight crew would have should smoke penetration occur. Many factors—including the airflow pattern, configuration changes in the environmental control system, potential leak paths, and location of outflow/regulator valves—would make it difficult to identify a smoke source, especially during flight or system transients, such as climbing/descending or changes in ventilation.

The FAA believes that smoke detectors are needed in all electrical/electronic equipment bays on the Model ERJ 190–100 ECJ to ensure that the flightcrew can make an informed decision as to the source of smoke and can shut down the specific electrical/

electronic equipment bay from which the smoke is coming.

These special conditions, therefore, require that there be a smoke or fire detection system in each electrical/electronic equipment bay. They also include requirements to prevent propagation of hazardous quantities of smoke or fire extinguishing agent between or throughout the passenger cabins on the main deck and the upper deck.

Discussion of Comments

Notice of proposed special conditions No. 25–08–04–SC for the Embraer S.A., Model ERJ 190–100 ECJ airplanes was published in the **Federal Register** on April 21, 2008 (73 FR 21288). A comment was received was in favor of the proposed special conditions and these special conditions were adopted as proposed with one correction as defined below.

During a review of the Notice of proposed special conditions No. 25–08–04–SC for the Embraer S.A., Model ERJ 190–100 ECJ airplanes, the FAA noted that the proposed flight test special condition demonstrating that only a ''small quantity'' of smoke may enter an occupied area from an electrical/electronic equipment bay is not consistent with the ''Discussion'' section of the document. The ''Discussion'' section clearly states that electrical/electronic equipment bays located below, on, and above the main deck of an airplane present a greater risk of smoke penetration than older designs. The proposed flight test special condition was inadvertently limited to smoke penetration flight tests for electrical/electronic equipment bays located on the main deck of the airplane. The final special condition has been corrected to reflect the FAA's original intent to require smoke penetration flight tests from all electrical/electronic equipment bay locations.

Applicability

As discussed above, these special conditions are applicable to the Embraer S.A., Model ERJ 190–100 ECJ airplanes. Should Embraer S.A., apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Model ERJ 190–100 ECJ airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer S.A., Model ERJ 190–100 ECJ airplanes.

1. Requirements to prevent propagation of smoke or extinguishing agents from entering the flight deck and passenger cabin:

(a) To prevent such propagation the following must be demonstrated: A means to prevent hazardous quantities of smoke or extinguishing agent originating from the electrical equipment bays from incapacitating passengers and crew.

(b) A ''small quantity'' of smoke may enter an occupied area only under the following conditions:

(1) The smoke enters occupied areas during system transients [1] from a source located below the flight deck and passenger cabin or on the same level as the flight deck and passenger cabin. No sustained smoke penetration beyond that from environmental control system transients is permitted.

(2) Penetration of the small quantity of smoke is a dynamic event, involving either dissipation or mobility. Dissipation is rapid dilution of the smoke by ventilation air, and mobility is rapid movement of the smoke into and out of the occupied area. In no case should there be formation of a light haze indicative of stagnant airflow, as this would indicate that the ventilation system is failing to meet the requirements of § 25.831(b).

(3) The smoke from a smoke source below the flight deck and passenger cabin must not rise above armrest height.

(4) The smoke from a source in an electrical/electronic equipment bay must dissipate rapidly via dilution with fresh air and be evacuated from the airplane. A procedure must be included in the Airplane Flight Manual to evacuate smoke from the occupied areas of the airplane. In order to demonstrate that the quantity of smoke is small, a flight test must be conducted which simulates the emergency procedures used in the event of a fire during flight, including the use of V_{mo}/M_{mo} descent profiles and a simulated landing, if such conditions are specified in the emergency procedure.

2. Requirement for fire detection in electrical/electronic equipment bays:

(a) A smoke or fire detection system compliant with §§ 25.858 and 25.855 must be provided that will detect fire/smoke within each electrical/electronic equipment bay.

(b) Each system must provide a visual indication to the flight deck within one minute after the start of a fire in an electrical/electronic equipment bay.

(c) Airplane flight tests must be conducted to show compliance with these requirements, and the performance of the smoke or fire detectors must be shown in accordance with guidance provided in the latest version of Advisory Circular 25–9, or other means acceptable to the FAA.

(d) A procedure to shut down all non-essential systems in the electrical/electronic equipment bays following a smoke detection in any electrical/electronic equipment bay must be included in the Airplane Flight Manual.

Issued in Renton, Washington, on July 22, 2008.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–17756 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

[1] Transient airflow conditions may cause air pressure differences between compartments, before the ventilation and pressurization system is reconfigured. Additional transients occur during changes to system configurations such as pack shut-down, fan shut-down, or changes in cabin altitude; transition in bleed source change, such as from intermediate stage to high stage bleed air; and cabin pressurization ''fly-through'' during descent may reduce air conditioning inflow. Similarly, in the event of a fire, a small quantity of smoke that penetrates into an occupied area before the ventilation system is reconfigured would be acceptable under certain conditions described within this special condition.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0003; FRL–8696–3]

Approval and Promulgation of Air Quality Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Illinois State Implementation Plan (SIP) for ozone. The state is incorporating revisions EPA made to its definition of volatile organic compound (VOC). This SIP revision adds one compound to the list of compounds that

are exempt from being considered a VOC. This is because it was determined that the listed compound does not significantly contribute to ozone formation.

DATES: This direct final rule will be effective October 3, 2008, unless EPA receives adverse comments by September 3, 2008. If adverse comments are 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–R05–OAR–2006–0003, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 886–5824.
4. *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.
5. *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 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 am to 4:30 pm excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov index.* Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the 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 legal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA approving?

EPA is approving an Illinois SIP revision that adds to the list of compounds that are exempt from being considered a VOC. On January 29, 2008, Illinois submitted its revised 35 Illinois Administrative Code (IAC) 211.7150(a), the state's VOC exemption list, with the addition of 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300), $C_2F_5CF(OCH_3)CF(CH_3)_2$, requesting that this revised rule be incorporated into the Illinois SIP in place of the current 35 IAC 211.7150(a). Compounds listed under 35 IAC 211.7150(a) are considered to be excluded from the definition of a VOC. These compounds were determined to have negligible photochemical reactivity. Users of the listed compounds are not required to follow VOC limits or content requirements.

II. What is EPA's analysis of the revisions?

EPA evaluated the petition to list HFE–7300 as a negligibly reactive compound submitted by its manufacturer. On January 18, 2007, EPA's approval (72 FR 2193) of adding HFE–7300 to its list of compounds that are not considered VOCs was effective. The reactivity of this compound with the hydroxyl radical (OH), the primary way by which most organic compounds initially participate in atmospheric reactions that lead to ozone formation, was compared to the reactivity of ethane. The reactivity of ethane is the benchmark EPA considers in determining if an organic compound is negligibly reactive. For HFE–7300, the reactivity (k_{OH}) was determined to be 1.5×10^{-14} cm^3/molecule/sec. This is lower than ethane's k_{OH} of 2.4×10^{-13} cm^3/molecule/sec. Thus, EPA considers HFE–7300 to be a negligibly reactive compound. EPA made this determination only for the compound in its pure form, meaning at least 99.96 percent by weight. Any azeotrope mixtures or organic blends of HFE–7300 are not exempt and thus are considered VOCs.

III. What are the environmental effects of this action?

Volatile organic compounds are precursors to ozone formation. Complex photochemical reactions involving VOCs form tropospheric ozone.

Ozone decreases lung function, causing chest pain and coughing. It can aggravate asthma, reduce lung capacity, and increase risk of respiratory diseases like pneumonia and bronchitis. Children playing outside and healthy adults who work or exercise outside may also be harmed by elevated ozone levels. Ozone also reduces vegetation growth in economically important agricultural crops and wild plants.

EPA has determined that HFE–7300 makes a negligible contribution to ozone formation. Thus, the compound is no longer considered to be a VOC for emission control purposes, and the exemptions will not harm air quality. In fact, if sources switch from the use of a VOC compound to one of the compounds that are no longer considered VOC, ozone formation may be reduced.

IV. What action is EPA taking?

EPA is approving revisions to the Illinois SIP for ozone. This revision adds one compound to the list of compounds considered exempt from being a VOC compound. The compound HFE–7300 is added to the exempt compounds list. Illinois sources are not required to follow VOC limits or content requirements when using HFE–7300.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective *October 3, 2008* without further notice unless we receive relevant adverse written comments by September 3, 2008. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective October 3, 2008.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 *October 3, 2008.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 14, 2008.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of 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 O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(182) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(182) On January 29, 2008, Illinois submitted revised regulations that are consistent with 40 CFR 51.100(s)(1), as amended by 72 FR 2193. The compound 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300) was added to the list of negligibly reactive compounds excluded from the definition of VOM in 35 IAC 211.7150(a).

(i) Incorporation by reference.

(A) Illinois Administrative Code Title 35: Environmental Protection, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.7150: Volatile Organic Matter (VOM) or Volatile Organic Compound (VOC), Subsection 211.7150(a). Effective January 16, 2008.

[FR Doc. E8–17699 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2008–0501; FRL–8698–7]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on May 22, 2008, to revise the Indiana State Implementation Plan (SIP). The submission revises the Indiana Administrative Code (IAC) by amending and updating the definition of ''References to the Code of Federal Regulations,'' to refer to the 2007 edition.

DATES: This rule is effective on October 3, 2008, unless EPA receives adverse written comments by September 3, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2008–0501 by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: aburano.douglas@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* John 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 Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business 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–2008–0501. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. 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 docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy 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 legal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?

A. When did the State submit the requested SIP revision to EPA?

IDEM submitted the requested SIP revision on May 22, 2008.

B. Did Indiana hold public hearings on this SIP revision?

IDEM held public hearings on October 3, 2007. IDEM did not receive any public comments concerning the SIP revision.

II. What revision did the State request be incorporated into the SIP?

The State has requested that EPA approve revisions to 326 IAC 1–1–3 to update references to the Code of Federal Regulations (CFR) at 326 IAC 1–1–3.

Rule 326 IAC 1–1–3, definition of ''References to Code of Federal Regulations.'' IDEM updated the reference to the CFR in 326 IAC 1–1–3 from the 2006 edition to the 2007 edition. This is solely an administrative change that allows Indiana to reference a more current version of the CFR.

III. What action is EPA taking today?

We are approving a revision to the Indiana SIP to update the definition at 326 IAC 1–1–3, ''References to the CFR'', to refer to the 2007 edition.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective October 3, 2008 without further notice unless we receive relevant adverse written comments by September 3, 2008. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any

comments, this action will be effective October 3, 2008.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 October 3, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: July 21, 2008.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of 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 P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(188) to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

(188) The Indiana Department of Environmental Management submitted a revision to Indiana's State Implementation plan on May 22, 2008, to amend 326 IAC 1–1–3, ''References to the Code of Federal Regulations''. The revision to 326 IAC 1–1–3 updates the references to CFR from the 2006 edition to the 2007 edition.

(i) *Incorporation by reference.* Title 326 of the Indiana Administrative Code (IAC), section 1–1–3, ''References to the Code of Federal Regulations'' is incorporated by reference. The rule was filed with the Publisher of the Indiana Register on April 1, 2008, and became effective on May 1, 2008. Published in the Indiana Register, on April 30, 2008 (DIN: 20080430–IR–32607037FRA).

[FR Doc. E8–17703 Filed 8–1–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2006–0386; FRL–8699–9]

Approval and Promulgation of Implementation Plans; Texas; El Paso County Carbon Monoxide Redesignation to Attainment, and Approval of Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On February 13, 2008, the Texas Commission on Environmental Quality (TCEQ) submitted a State Implementation Plan (SIP) revision to request redesignation of the El Paso carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). This submittal also included a CO maintenance plan for the El Paso area and associated Motor Vehicle Emission Budgets (MVEBs). The maintenance plan was developed to ensure continued attainment of the CO NAAQS for a period of at least 10 years from the effective date of EPA approval of redesignation to attainment. In this action, EPA is approving the El Paso CO redesignation request and the maintenance plan with its associated MVEBs as satisfying the requirements of the Federal Clean Air Act (CAA) as amended in 1990.

DATES: This rule is effective October 3, 2008 without further notice, unless EPA receives relevant adverse comment by

September 3, 2008. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2006–0386, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2006–0386. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, Air Planning Section, (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–8542; fax number 214–665–7263; e-mail address *riley.jeffrey@epa.gov.*

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

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I. Background

Under the 1990 Federal Clean Air Act (CAA) Amendments, El Paso was designated and classified as a moderate nonattainment area for CO because it did not meet the 8-hour CO NAAQS for this criteria pollutant (56 FR 56694). El Paso's classification as a moderate nonattainment area under sections 107(d)(4)(A) and 186(a) of the CAA imposed a schedule for attainment of the CO NAAQS by December 31, 1995.

The El Paso nonattainment area has unique considerations for CO attainment planning due to airshed contributions from Ciudad Juarez, Mexico. Section 179B of the 1990 CAA Amendments contains provisions for CO nonattainment areas affected by emissions emanating from outside the United States. Under CAA Section 179B, the EPA shall approve a SIP for the El Paso nonattainment area if the TCEQ establishes to the EPA's satisfaction that implementation of the plan would achieve timely attainment of the NAAQS but for emissions emanating from Ciudad Juarez. This provision prevents El Paso County from being reclassified to a higher level of nonattainment should monitors continue to record CO concentrations in excess of the NAAQS.

To meet the CAA attainment schedule of December 31, 1995, Texas submitted an initial revision to the SIP for the El Paso CO moderate nonattainment area in a letter dated September 27, 1995. This submittal, as well as a February 1998 supplemental submittal, included air quality modeling demonstrating that El Paso would attain the CO NAAQS by December 31, 1995, but for emissions emanating outside of the United States from Mexico. The EPA approved a revision to the Texas SIP submitted to show attainment of the 8-hour CO NAAQS in the El Paso CO nonattainment area under Section 179B provisions, as well as approving the El Paso area's CO emissions budget and a CO contingency measure requirement. The State submitted the revisions to satisfy Section 179B and Part D requirements of the CAA. This approval was published July 2, 2003 (68 FR 39457), and became effective September 2, 2003. TCEQ also submitted all the requirements for the moderate area classification and EPA approved them. See further discussion in Section II.B.2.

On January 20, 2006, the State of Texas submitted a revision to the SIP which consisted of a request for redesignation of the El Paso carbon monoxide (CO) nonattainment area to attainment for the CO NAAQS, as well as an 8-hour CO maintenance plan to

ensure that El Paso County remains in attainment of the 8-hour CO NAAQS. EPA was unable to take action on this request for redesignation because the 8-hour CO maintenance plan did not provide for a maintenance period of at least 10 years after redesignation, as required by CAA Section 175A(a). On February 13, 2008, the State submitted a revision to the SIP containing an 8-hour CO maintenance plan to provide for El Paso County's continued attainment of the 8-hour CO NAAQS until 2020.

In this action, we are approving a change in the legal designation of the El Paso area from nonattainment for CO to attainment, in addition to approving the maintenance plan that is designed to keep the area in attainment for CO until 2020. Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) The Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

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

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such area has met all requirements applicable to the area under section 110 and Part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. The State of Texas has incorporated a CO maintenance plan into this submittal to satisfy the requirement of a fully approved maintenance plan for the area.

II. EPA's Evaluation of the El Paso Redesignation Request and Maintenance Plan

We have reviewed the El Paso CO redesignation request and maintenance plan and believe that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). The following are descriptions of how the section 107(d)(3)(E) requirements are being addressed.

(a) Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. The area is designated attainment for the 1-hour CO NAAQS and designated nonattainment for the 8-hour CO NAAQS. As described in 40 CFR 50.8, the 8-hour CO NAAQS for carbon monoxide is 9 parts per million (ppm), (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR Part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the 8-hour CO standard is not a momentary phenomenon based on short-term data. Instead, we consider an area to be in attainment if each of the 8-hour CO ambient air quality monitors in the area doesn't have more than one exceedance of the 8-hour CO standard over a one-year period. If any monitor in the area's CO monitoring network records more than one exceedance of the 8-hour CO standard during a one-year calendar period, then the area is in violation of the 8-hour CO NAAQS. In addition, our interpretation of the CAA and EPA national policy [1] has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for at least a continuous two-year calendar period. In addition, the area must also continue to show attainment through the date that we promulgate the redesignation in the **Federal Register**.

The State of Texas' CO redesignation request for the El Paso area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. As presented in Chapter 3, Table 3–1 of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1999 through 2005 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the El Paso nonattainment area. We have evaluated the ambient air quality data and have determined that the El Paso area has not violated the 8-hour CO standard and continues to demonstrate attainment. The El Paso nonattainment area has quality-assured data showing no violations of the 8-hour CO NAAQS for the most recent consecutive two-calendar-year period (2006 and 2007). Therefore, we believe the El Paso area has met the first component for redesignation: Demonstration of attainment of the CO NAAQS. We note too that the State of Texas has also committed, in the maintenance plan, to continue the necessary operation of the CO monitoring network in compliance with 40 CFR Part 58.

(b) Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and Part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

1. CAA Section 110 Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. On July 2, 2003, we approved the El Paso CO element revisions to Texas's SIP as meeting the requirements of section 110(a)(2) of the CAA (*see* 68 FR 39457).

2. Part D Requirements

Before the El Paso ''moderate'' CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of Part D. Under Part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of Part D sets forth the basic nonattainment

[1] Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled ''Procedures for Processing requests to Redesignate areas to Attainment''.

requirements applicable to all nonattainment areas. Subpart 3 of Part D contains specific provisions for ''moderate'' CO nonattainment areas. The relevant subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (*see* 57 FR 13529 to 13532, April 16, 1992) provides EPA's interpretations of the CAA requirements for ''moderate'' CO areas such as El Paso with CO design values that are less than or equal to 12.7 ppm. The General Preamble (*see* 57 FR 13530, *et seq.*) provides that the applicable requirements of CAA section 172 are: *172(c)(3) (emissions inventory), 172(c)(5) (new source review permitting program), 172(c)(7) (the section 110(a)(2) air quality monitoring requirements), and 172(c)(9) (contingency measures).* Regarding the requirements of sections 172(c)(3) (inventory) and 172(c)(9) (contingency measures), please refer to our discussion below of sections 187(a)(1) and 187(a)(3), which are the more specific provisions of Subpart 3 of Part D of the CAA.

It is also worth noting that we interpreted the requirements of sections 172(c)(2) (reasonable further progress—RFP) and 172(c)(6) (other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. *See* EPA's September 4, 1992, John Calcagni memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'', and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

For the section 172(c)(5) New Source Review (NSR) requirements, the CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Texas has an approved NSR program (*see* 60 FR 49781, September 27, 1995) that meets the requirements of CAA section 172(c)(5). For the CAA section 172(c)(7) provisions (compliance with the CAA section 110(a)(2) Air Quality Monitoring Requirements), our interpretations are presented in the General Preamble (57 FR 13535). CO nonattainment areas are to meet the ''applicable'' air quality monitoring requirements of section 110(a)(2) of the CAA. Information concerning CO monitoring in Texas is included in the Annual Monitoring Network Review (MNR) prepared by the State and submitted to EPA. Our personnel have concurred with Texas' annual network reviews and have agreed that the El Paso network remains adequate.

In Chapter 5, Section 5.5 of the maintenance plan, the State commits to the continued operation of the existing CO monitoring network according to applicable Federal regulations and guidelines (40 CFR part 58).

The relevant Subpart 3 provisions were created when the CAA was amended on November 15, 1990. The new CAA requirements for ''moderate'' CO areas, such as El Paso, required that the SIP be revised to include a 1990 base year emissions inventory (CAA section 187(a)(1)), contingency provisions (CAA section 187(a)(3)), corrections to existing motor vehicle inspection and maintenance (I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), and the implementation of an oxygenated fuels program (CAA section 211(m)(1)). Sections 187(a)(2), (6), and (7) do not apply to the El Paso area because its design value was below 12.7 ppm at the time of classification. How the State met these requirements and our approvals, are described below:

A. 1990 base year emissions inventory (CAA section 187(a)(1)): EPA approved an emissions inventory on September 12, 1994 (*see* 59 FR 46766).

B. Contingency provisions (CAA section 187(a)(3)): EPA approved the use of 46 tons per day in incremental CO reduction credits from the Texas low-enhanced vehicle inspection and maintenance program, as fulfillment of the State's CO attainment contingency measure requirement for the El Paso nonattainment area under section 172(c)(9) on July 2, 2003 (*see* 68 FR 39457).

C. Corrections to the El Paso basic I/M program (CAA section 187(a)(4)): EPA approved the Texas Motorist Choice (TMC) I/M Program (which includes El Paso) on November 14, 2001 (*see* 66 FR 57261).

D. Periodic emissions inventories (CAA section 187(a)(5)): The State submitted an initial revision to the SIP for the El Paso CO moderate nonattainment area in a letter dated September 27, 1995. This submittal, as well as a February 1998 supplemental submittal contained a commitment to submit emission inventory updates. TCEQ continues to submit the Periodic Emissions Inventory (PEI) every three years.

E. Oxygenated fuels program implementation (CAA section 211(m)): EPA approved the El Paso oxygenated fuels program on September 12, 1994 (*see* 59 FR 46766).

(c) Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k). As noted above, EPA previously approved SIP revisions for the El Paso CO nonattainment area that were required by the 1990 amendments to the CAA. In this action, we are also approving the maintenance plan proposed by the State, and the State's commitment to maintain an adequate monitoring network (contained in the maintenance plan). Thus, with this final rule to approve the El Paso redesignation request and maintenance plan, we will have fully approved the El Paso CO element of the SIP under section 110(k) of the CAA.

(d) Redesignation Criterion: The Area Must Show That the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. The CO emissions reductions for El Paso, that are further described in Sections 3.5 and 5.4.2 of the El Paso maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), an oxygenated fuels program, and a motor vehicle inspection and maintenance (I/M) program.

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles (''fleet turnover''), emission reductions are realized for a particular area such as El Paso. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust

emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

As stated in Section 5.4.2 of the maintenance plan, significant additional emission reductions were realized from El Paso's basic I/M program. The program requires annual inspections of vehicles at independent inspection stations. We note that further improvements to the El Paso area's basic I/M program, to meet the requirements of EPA's November 5, 1992, (57 FR 52950) I/M rule, and upgrading the I/M program to meet the requirements for a low-enhanced program, were approved by us into the SIP on November 14, 2001 (68 FR 39457).

Oxygenated fuels are gasolines that are blended with additives that increase the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. TAC Title 30, Chapter 114, Section 114.100, ''Oxygenated Fuels Program'', contains the oxygenated fuels provisions for the El Paso nonattainment area. This rule requires all El Paso area gas stations to sell fuels containing a 2.7% minimum oxygen content (by weight) during the wintertime CO high pollution season. The use of oxygenated fuels has significantly reduced CO emissions and contributed to the area's attainment of the CO NAAQS.

During the public comment process for State-level adoption of the maintenance plan, the Texas Oil and Gas Association (TXOGA) recommended removing the oxygenated fuels program as a control measure and establishing it as a contingency measure. Due to support for the oxygenated fuels program stated by the local governmental entities, the State chose to retain the program as a committed control measure as part of the redesignation request and maintenance plan. This rulemaking action involves EPA approval of the El Paso CO redesignation request and the associated maintenance plan submitted by the State. EPA only can act upon what a State has chosen to submit to EPA for approval as a SIP revision. EPA cannot usurp a state's primary role in establishing the SIP controls. Therefore, if EPA receives any comments about the removal of the oxygenated fuels program to the contingency measures plan, we shall not consider them as relevant comment to this rulemaking. Should the State consider removing the oxygenated fuels program to the contingency measures plan at a later date, another public hearing and comment period would be held as part of a separate rulemaking and SIP revision process.

We have evaluated the various State and Federal control measures, and believe that the improvement in air quality in the El Paso nonattainment area has resulted from emission reductions that are permanent and enforceable.

(e) Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, we issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992 (hereafter the September 4, 1992 Calcagni Memorandum).

In this **Federal Register** action, EPA is approving the maintenance plan for the El Paso CO nonattainment area because we believe, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with our interpretations of the CAA, as reflected in the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the State's February 13, 2008, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble (see 57 FR 13498, April 16, 1992) and the September 4, 1992 Calcagni Memorandum referenced above. Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration.

For the El Paso area, the State selected the emissions inventory approach for demonstrating maintenance of the CO NAAQS; however, the State also conducted ''hot spot'' CO modeling to demonstrate that CO exceedances are not currently occurring at a potential hot spot and will not occur at such locations in the future. The maintenance plan submitted by the TCEQ on February 13, 2008, includes comprehensive inventories of CO emissions for the El Paso area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 2002 as the year from which to develop the attainment year inventory and included a projection out to 2020. More detailed descriptions of the 2002 attainment year inventory and the projected inventory are documented in the maintenance plan in Chapter 2. Summary emission figures from the 2002 attainment year and the final maintenance year of 2020 are provided in Table 1 below.

TABLE 1—EL PASO COUNTY CO EMISSIONS FOR 2002–2020 (TPD)

Year	Point source	Area	Non-road mobile	On-road mobile	Total
2002	4.67	16.42	45.90	360.34	427.33
2020	5.13	19.10	63.77	230.26	318.26

As presented in Chapter 3, Table 3–1 of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1999 through 2005 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the El Paso nonattainment area. To further demonstrate maintenance of the CO NAAQS, the TCEQ agreed to additional ''hot spot'' modeling as requested by EPA on the basis of EPA's Office of Air Quality Planning and Standards' (OAQPS) September 30, 1994 Ozone/Carbon Monoxide Redesignations Reference Document. The modeling was done specifically to address two concerns—the El Paso CO monitoring network has a limited number of sites, and therefore may not have identified all the hot spots in the El Paso area; and in the future, urban growth may increase mobile emissions enough to cause exceedances of the NAAQS.

The TCEQ performed CO modeling at a heavily utilized intersection to demonstrate that CO exceedances are not currently occurring at a potential hot spot and will not occur at that location in the future. A modeling protocol detailing hotspot selection, proposed model usage, and data analysis was submitted by the State on February 17, 2005, and was approved by EPA via a letter dated March 30, 2005. The modeling protocol and approach taken are detailed in Chapter 4 of the maintenance plan. As shown in Table 4–2 of the maintenance plan, the current (base) case hot spot analysis predicted a maximum 8-hour CO concentration of 7.8 ppm, and the 2020 future case analysis predicted a maximum 8-hour CO concentration of 2.0 ppm. Both of these values are below the 9 ppm NAAQS, and demonstrate current and projected compliance with the CO standard. A more detailed evaluation by EPA of this hot spot analysis is provided in the TSD.

2. Demonstration of Maintenance—Projected Inventories

As we noted above, total CO emissions were projected forward by the State for the year 2020. We note the State's approach for developing the projected inventory follows EPA guidance on projected emissions and we believe it is acceptable.[2] The projected inventory shows that CO emissions are not estimated to exceed the 2002 attainment level during the time period 2002 through 2020 and, therefore, the El Paso area has satisfactorily demonstrated maintenance. The projected inventory was developed using EPA-approved technologies and methodologies. No new control strategies for point and area sources were relied upon in the projected inventory. CO emission reductions anticipated from EPA's national rule for the Spark Ignition Small Engine Rule, Phase 1, were relied upon as a new control strategy for Nonroad sources. TCEQ relied upon emissions reductions anticipated from existing control strategies: FMVCP, Texas Oxygenated Fuel SIP, and the Texas I/M Program. Please see the TSD for more information on EPA's review and evaluation of the State's methodologies, modeling, inputs, etc., for developing the projected emissions inventory.

3. Monitoring Network and Verification of Continued Attainment

The TCEQ commits to maintain an appropriate air monitoring network for the El Paso area throughout the 10-year maintenance period. As required by 40 CFR part 58.20(d), TCEQ will consult with EPA in annual review of the air monitoring network to determine the adequacy of the CO monitoring network, whether or not additional monitoring is needed, and if/when monitor sites can be discontinued. The TCEQ also commits to adhere to data quality requirements as specified in 40 CFR part 58 Quality Assurance Requirements.

In El Paso County, there are eight monitoring sites, each of which has monitored attainment with the 8-hour CO NAAQS from 2002 through 2007. The 8-hour CO NAAQS is 9 ppm based on the three-year average of the fourth-highest daily maximum 8-hour CO concentration measured at each monitor within an area. The standard is considered to be attained at 9.4 parts per million (ppm). The three most recent 8-hour CO design values for El Paso County are 6.4 ppm for 2005, 5.4 ppm for 2006, and 3.8 ppm for 2007.

Texas commits to track the progress of the maintenance plan by continuing to periodically update the emissions inventory (EI). It will compare the updated EIs against the projected 2020 EIs.

TCEQ also commits to continuing all the applicable control strategies, i.e., the measures approved into the El Paso SIP. For example, these measures include the Federal Motor Vehicle Control Program (FMVCP), an oxygenated fuels program, and a motor vehicle inspection and maintenance (I/M) program.

Based on the above, we are approving these commitments as satisfying the relevant requirements and we note that this final rulemaking approval will render the State's commitments federally enforceable.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. In the February 13, 2008 submittal, Texas specifies the contingency trigger as a violation of the 8-hour CO standard based upon air quality monitoring data from the El Paso monitoring network. In the event that a monitored violation of the 8-hour CO standard occurs in any portion of the maintenance area, the State will first analyze the data to determine if the violation was caused by actions outside TCEQ's jurisdiction (e.g., emissions from Mexico or another state) or within its jurisdiction. If the violation was caused by actions outside TCEQ's jurisdiction, TCEQ will notify the EPA. If TCEQ determines the violation was caused by actions within TCEQ's jurisdiction, TCEQ commits to adopt and implement the identified contingency measures as expeditiously as practicable, but no later than 18 months.

The State specifically identifies the following contingency measures to reattain the standard:

- Vehicle idling restrictions.
- Improved vehicle I/M.
- Improved traffic control measures.

[2] ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' signed by D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

• Implementation of a vanpool program using Federal Congestion Mitigation and Air Quality Program (CMAQ) funds.

The maintenance plan indicates that the State may evaluate other potential strategies to address any future violations in the most appropriate and effective manner possible. Based on the above, we find that the contingency measures provided in the State's El Paso CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Texas has committed to submit a revised maintenance plan eight years after our approval of the redesignation. This provision for revising the maintenance plan is contained in Chapter 5, Section 5.1 of the El Paso CO maintenance plan.

The maintenance plan adequately addresses the five basic components of a maintenance plan. EPA believes that the 8-hour CO maintenance plan SIP revision submitted by the State of Texas for the El Paso area meets the requirements of Section 175A of the CAA. For more information, please refer to our Technical Support Document.

III. EPA's Evaluation of the Transportation Conformity Requirements

Table 2–7 of the maintenance plan documents the motor vehicle emissions budget (MVEB) for the El Paso CO nonattainment area that has been established by this CO redesignation request. The MVEB is that portion of the total allowable emissions defined in the SIP revision allocated to on-road mobile sources for a certain date for meeting the purpose of the SIP, in this case maintaining compliance with the NAAQS in the nonattainment or maintenance area. EPA's conformity rule (40 CFR part 51, subpart T and part 93, subpart A) requires that transportation plans, programs and projects in nonattainment or maintenance areas conform to the SIP. The motor vehicle emissions budget is one mechanism EPA has identified for demonstrating conformity. Upon the effective date of this SIP approval, all future transportation improvement programs and long range transportation plans for the El Paso area will have to show conformity to the budgets in this plan; previous budgets approved or found adequate will no longer be applicable.

TABLE 2—EL PASO CO MVEB FOR 2020 (TPD)

Year	MVEB
2020	29.66

Our analysis indicates that the above figures are consistent with maintenance of the CO NAAQS throughout the maintenance period. In accordance with EPA's adequacy process, these MVEBs were posted on EPA's adequacy Web site for public notice on March 19, 2008 and were open for comment until April 18, 2008. No comments were received during this period. Therefore, we are finding as adequate and approving the 29.66 tpd for 2020 and beyond, CO emissions budget for the El Paso area. Budget modeling was developed for TCEQ under contract by the Texas Transportation Institute (TTI), utilizing El Paso travel model datasets developed by the El Paso Metropolitan Planning Organization. The modeling incorporated three onroad source control strategies that apply in the El Paso area: The FMVCP, the El Paso Oxygenated Fuel Program, and the I/M program (both detailed in Chapter 5, Section 5.4.2 of the maintenance plan).

IV. Consideration of Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. As stated above, the El Paso area has shown continuous attainment of the CO NAAQS since 1999 and has met the applicable Federal requirements for redesignation to attainment. The maintenance plan will not interfere with attainment or any other applicable requirement of the CAA. No control measures in the El Paso SIP are being removed.

V. Final Action

EPA is approving the redesignation of the El Paso area to attainment of the 8-hour CO NAAQS, as well as approving the El Paso area CO maintenance plan. We also are approving the associated MVEBs.

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Clean Air Act and EPA regulations, and is consistent with EPA policy.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if relevant adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We would address all public comments in a subsequent final rule based on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this Action:

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• 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);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 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 action 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 October 3, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

40 CFR Part 81

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

Dated: July 18, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

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

PART 52—[AMENDED]

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

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

Subpart SS—Texas

■ 2. In § 52.2270, the second table in paragraph (e) entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding an entry at the end of the table to read as follows:

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Comments
* * * *	* * *	*	*	
El Paso County Carbon Monoxide Maintenance Plan.	El Paso, TX	2/13/08	8/04/08 [Insert FR page number where document begins].	

PART 81—[AMENDED]

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

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

■ 4. Section 81.344 is amended by revising the Carbon Monoxide table entry for El Paso County to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—CARBON MONOXIDE

Designated area	Designation		Category/classification	
	Date[1]	Type	Date[1]	Type
El Paso El Paso County	8/04/08	Attainment.		
* * * * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. E8–17700 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2007–1185; FRL–8699–7]

Mississippi: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Mississippi has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Mississippi. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment.

DATES: Final authorization will become effective on October 3, 2008 unless EPA receives adverse written comment on or before September 3, 2008. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2007–1185 by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: johnson.otis@epa.gov*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery:* Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R04–RCRA–2007–1185. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*).

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy. You may view and copy Alabama's application from 8 a.m. to 4:30 p.m. at the EPA Region 4, RCRA Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

You may also view and copy Mississippi's application from 8 a.m. to 4:30 p.m. at The Mississippi Department of Environmental Quality, Hazardous Waste Division, 101 W. Capital, Suite 100, Jackson, Mississippi 39201.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8481; fax number: (404) 562–9964; e-mail address: *johnson.otis@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Mississippi's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Mississippi Final authorization to operate its hazardous waste program with the changes described in the authorization application. Mississippi has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDF) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of

HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Mississippi, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of This Authorization Decision?

The effect of this decision is that a facility in Mississippi subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Mississippi has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits;
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Mississippi is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before This Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn.

F. What Has Mississippi Previously Been Authorized for?

Mississippi initially received Final authorization on June 13, 1984, effective June 27, 1984 (49 FR 24377), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on August 17, 1988, effective October 17, 1988 (53 FR 31000), August 10, 1990, effective October 9, 1990 (55 FR 32624), March 29, 1991, effective May 28, 1991 (56 FR 13079), June 26, 1991, effective August 27, 1991 (56 FR 29589), May 11, 1992, effective July 10, 1992 (57 FR 20056), April 8, 1993, effective June 7, 1993 (58 FR 18162), October 20, 1993, effective December 20, 1993 (58 FR 54044), March 18, 1994, effective May 17, 1994 (59 FR 12857), June 1, 1995, effective July 31, 1995 (60 FR 28539), August 30, 1995, effective October 30, 1995 (60 FR 5718), February 23, 2005, effective April 25, 2005 (70 FR 8731).

G. What Changes Are We Authorizing With This Action?

On June 20, 2007, Mississippi submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. Mississippi's revision consists of provisions promulgated July 1, 2000, through June 30, 2005, otherwise known as RCRA Clusters XI, XII, XIII, XIV and XV. The Mississippi Department of Environmental Quality adopted the rules for RCRA Clusters XI–XV effective May 25, 2006. We can now make an immediate final decision, subject to receipt of written comments that oppose this action, that Mississippi's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Mississippi Final authorization for the following program changes:

Description of federal requirement	Federal Register
Checklist 188, Hazardous Air Pollutant Standards; Technical Corrections	July 10, 2000, 65 FR 42292. May 14, 2001, 66 FR 24270. July 3, 2001, 66 FR 35087.
Checklist 189, Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes	November 8, 2000, 65 FR 67068.
Checklist 190, Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil	December 26, 2000, 65 FR 81373.
Checklist 191, Mixed Waste Rule	May 16, 2001, 66 FR 27218.
Checklist 192A, Mixture and Derived-From Rules Revision	May 16, 2001, 66 FR 27266.
Checklist 193, Change of Official EPA Mailing Address	June 27, 2001, 66 FR 34374.
Checklist 194, Mixture and Derived-From Rules Revision II	October 3, 2001, 66 FR 50332.
Checklist 195, Inorganic Chemical Manufacturing Wastes Identification and Listing	November 20, 2001, 66 FR 58258. April 9, 2002, 67 FR 17119.
Checklist 197, Hazardous Air Pollutant Standards for Combustors: Interim Standards	February 13, 2002, 67 FR 6792.
Checklist 198, Hazardous Air Pollutant Standards for Combustors: Corrections	February 14, 2002, 67 FR 6968.
Checklist 199, Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste 67.	March 13, 2002, 67 FR 11251.
Checklist 200, Zinc Fertilizer Rule	July 24, 2002, 67 FR 48393.
Checklist 201, Treatment Variance for Radioactively Contaminated Batteries	October 7, 2002 67 FR 62618.
Checklist 202, Hazardous Air Pollutant Standards for Combustors-Corrections 2	December 19, 2002, 67 FR 77687.
Checklist 203, Recycled Used Oil Management Standards; Clarification	July 30, 2003, 68 FR 44659.
Checklist 204, Performance Track	April 22, 2004, 69 FR 21737. October 25, 2004, 69 FR 21737.
Checklist 205, NESHAP: Surface Coating of Automobiles and Light-Duty Trucks	April 26, 2004, 69 FR 22601.
Checklist 206, Nonwastewaters from Dyes and Pigments	February 24, 2005, 70 FR 9138.
Checklist 207, Uniform Hazardous Waste Manifest Rule	March 4, 2005, 70 FR 10776.

The Mississippi Department of Environmental Quality, Office of Pollution Control, Hazardous Waste Management Regulations were effective July 10, 2006.

H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements in this program revision considered to be more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Mississippi will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Mississippi is not yet authorized.

J. What Is Codification and Is EPA Codifying Alabama's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart Z for this authorization of Mississippi's program changes until a later date.

K. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action 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 action authorizes 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule 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 document 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 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). This action will be effective October 3, 2008.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Sections 2002(a), 3006, and 7004(b), of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: June 16, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E8–17710 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 73, No. 150
Monday, August 4, 2008

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI09

[NRC–2008–0361]

License and Certificate of Compliance Terms

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of preliminary draft rule language.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is making available preliminary draft rule language to amend its regulations concerning licensing requirements for the independent storage of spent nuclear fuel. This proposed rulemaking includes changes that clarify the license term limits for dry storage cask Certificates of Compliance (CoCs) and independent spent fuel storage installation (ISFSI) licenses, provide consistency between the general license requirements and the site-specific ISFSI license requirements, and allow part 72 general licensees to implement changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC (a ''previously loaded cask''). More specifically, the proposed amendments would allow for longer initial and renewal terms for part 72 CoCs and licenses, clarify the general license storage term, clarify the difference between CoC ''approval'' and ''renewal,'' allow a licensee to apply the changes associated with a CoC amendment to a previously loaded cask without express NRC approval, provided the cask then fully conforms to the terms, conditions, and specifications of the amended CoC, and make certain administrative and clarification changes. The availability of the preliminary draft rule language is intended to inform stakeholders of the current status of the NRC's activities and solicit public comments on the information at this time.

DATES: Submit comments by August 31, 2008. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number, RIN 3150–AI09, in the subject line of your comments. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC may post updates periodically under Docket ID [NRC–2008–0361] on the Federal eRulemaking Portal at *http://www.regulations.gov* that may be of interest to stakeholders.

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0361]. Address questions about NRC dockets to Carol Gallagher 301–415–5905; e-mail *Carol.Gallagher@nrc.gov.*

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

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1966.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301–415–1677).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101. You can access publicly available documents related to this document using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–899–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Keith K. McDaniel, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5252, e-mail, *keith.mcdaniel@nrc.gov.*

SUPPLEMENTARY INFORMATION: The preliminary draft rule language can be viewed and downloaded electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* by searching for Docket #NRC–2008–0361 as well as in ADAMS (ML081970262).

The goal of this rulemaking is to both clarify the license term limits for part 72 CoCs and licenses and to allow part 72 general licensees to implement changes authorized by an amended CoC to a previously loaded cask. The proposed changes would also provide consistency between the general license requirements and the site-specific ISFSI license requirements within 10 CFR part 72.

The NRC is making a preliminary version of the draft proposed rule language available to inform stakeholders of the current status of this proposed rulemaking. The NRC is inviting stakeholders to comment on the draft proposed rule language. The NRC specifically asks for stakeholder review and comment on the draft provisions in 72.212(b)(3)–(5) with regard to implementation of the requirements to allow a licensee to apply the changes authorized by an amended Certificate of Compliance to a previously loaded cask. This preliminary draft rule language may be subject to significant revisions during the rulemaking process. The NRC will review and consider any comments received for information only; the NRC will not respond to any comments received at this pre-rulemaking stage. As appropriate, the Statements of Consideration for the proposed rule will briefly discuss any substantive changes made to the proposed rule language as a result of

comments received. Once published as a proposed rule in the **Federal Register**, stakeholders will have an opportunity to comment on the proposed rule language and, the NRC will respond to any such comments in the Statements of Consideration for the final rule.

Dated at Rockville, Maryland, this 28th day of July 2008.

For the Nuclear Regulatory Commission.

Dennis K. Rathbun,

Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–17796 Filed 8–1–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0832; Directorate Identifier 2008–NM–067–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

In-service experience has shown that a fracture of the gerotor pump of the A320 RAT [ram air turbine] may occur. This may lead to the non-operation of the RAT in case of an in-flight deployment.

The Non-Deployment or Non-Pressurization of the RAT, associated with a double engine failure or a total loss of normal electrical power generation constitutes an unsafe condition.

* * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 3, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0832; Directorate Identifier 2008–NM–067–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0034, dated February 20, 2008 [corrected February 21, 2008] (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

In-service experience has shown that a fracture of the gerotor pump of the A320 RAT [ram air turbine] may occur. This may lead to the non-operation of the RAT in case of an in-flight deployment.

The Non-Deployment or Non-Pressurization of the RAT, associated with a double engine failure or a total loss of normal electrical power generation constitutes an unsafe condition.

This AD mandates the replacement of the affected gerotor pump assembly, which will provide the required improved reliability of the RAT.

The implementation of this modification was originally managed by an AIRBUS monitoring campaign. However, the rate of installation of the modification by operators has not met the predicted target. As such and to ensure continued compliance with the certification requirements it is considered necessary to require compliance by use of [an] AD.

* * * * *

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

Relevant Service Information

Airbus has issued Service Bulletin A320–29–1122, dated July 27, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an 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 also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are

highlighted in a **Note** within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 758 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $303,200, or $400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2008–0832; Directorate Identifier 2008–NM–067–AD.

Comments Due Date

(a) We must receive comments by September 3, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A318, A319, A320, and A321 airplanes, certificated in any category; except airplanes on which AIRBUS Modification 27189 was done in production or AIRBUS Service Bulletin A320–29–1100 was done in service, and on which AIRBUS Modification 28413 was not done in production.

Subject

(d) Air Transport Association (ATA) of America Code 29: Hydraulic power.

Reason

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

In-service experience has shown that a fracture of the gerotor pump of the A320 RAT [ram air turbine] may occur. This may lead to the non-operation of the RAT in case of an in-flight deployment.

The Non-Deployment or Non-Pressurization of the RAT, associated with a double engine failure or a total loss of normal electrical power generation constitutes an unsafe condition.

This AD mandates the replacement of the affected gerotor pump assembly, which will provide the required improved reliability of the RAT.

The implementation of this modification was originally managed by an AIRBUS monitoring campaign. However, the rate of installation of the modification by operators has not met the predicted target. As such and to ensure continued compliance with the certification requirements it is considered necessary to require compliance by use of [an] AD.

* * * * *

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 15 months after the effective date of this AD, identify the part number (P/N) and serial number (S/N) of the RAT in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–29–1122, dated July 27, 2006.

(2) For airplanes on which a RAT with P/N 680203037 is installed that has a S/N between 0101 and 0354 inclusive: Before further flight, replace the gerotor pump assembly and re-identify the RAT in accordance with the service bulletin.

(3) For airplanes on which a RAT with P/N 680203037 is installed that does not have a S/N between 0101 and 0354 inclusive, or a RAT with a P/N other than P/N 680203037 is installed: No further action is required by this AD.

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, International Branch, 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149. 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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2008–0034, dated February 20, 2008 [corrected February 21, 2008], and Airbus Service Bulletin A320–29–1122, dated July 27, 2006, for related information.

Issued in Renton, Washington, on July 23, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–17782 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0830; Directorate Identifier 2007–NM–285–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000EX Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Investigations after a CAS (crew alerting system) message ''ENG 1 FIRE DETECT FAIL'' that occurred on an in-service aircraft revealed that the detector threshold tolerances could not permit to identify the failure of one single engine fire detector loop out of the two present on each engine. The fire detection system integrity is therefore not correctly monitored.

* * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 3, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0830; Directorate Identifier 2007–NM–285–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On January 5, 2007, we issued AD 2007–02–01, Amendment 39–14888 (72 FR 2177, January 18, 2007). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2007–02–01, we have determined that fire detector threshold tolerances for the affected airplanes do not identify the failure of one engine fire detector loop out of the two present on each engine. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0119, dated May 2, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Investigations after a CAS (crew alerting system) message ''ENG 1 FIRE DETECT FAIL'' that occurred on an in-service aircraft revealed that the detector threshold tolerances could not permit to identify the failure of one single engine fire detector loop out of the two present on each engine. The fire detection system integrity is therefore not correctly monitored.

Airworthiness Directive (AD) No 2006–0356–E [which corresponds to FAA AD 2007–02–01] was initially issued to mandate the verification of the fire detection system integrity by a one time inspection.

The current AD mandates installation of two new fire monitoring units of an improved design, each one of them is capable of monitoring the integrity of both detectors on the associated engine.

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

Relevant Service Information

Dassault has issued Service Bulletin F2000EX–138, dated March 5, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an 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 also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a **Note** within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 42 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $10,080, or $240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14888 (72 FR 2177, January 18, 2007) and adding the following new AD:

Dassault Aviation: Docket No. FAA–2008–0830; Directorate Identifier 2007–NM–285–AD.

Comments Due Date

(a) We must receive comments by September 3, 2008.

Affected ADs

(b) This AD supersedes AD 2007–02–01, Amendment 39–14888.

Applicability

(c) This AD applies to Dassault Model Falcon 2000EX airplanes, certificated in any category, serial number (S/N) 06 and from S/N 28 to 107 inclusive, without modification M2958 implemented.

Subject

(d) Air Transport Association (ATA) of America Code 26: Fire Protection.

Reason

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

Investigations after a CAS (crew alerting system) message ''ENG 1 FIRE DETECT FAIL'' that occurred on an in-service aircraft revealed that the detector threshold tolerances could not permit to identify the failure of one single engine fire detector loop out of the two present on each engine. The fire detection system integrity is therefore not correctly monitored.

Airworthiness Directive (AD) No 2006–0356–E [which corresponds to FAA AD 2007–02–01] was initially issued to mandate the verification of the fire detection system integrity by a one time inspection.

The current AD mandates installation of two new fire monitoring units of an improved design, each one of them is capable of monitoring the integrity of both detectors on the associated engine.

Restatement of Requirements of AD 2007–02–01

(f) Unless already done, do the following actions. Within 35 days after February 2, 2007 (the effective date of AD 2007–02–01), perform an engine fire detection integrity check as required by paragraphs (f)(1), (f)(2), and (f)(3) of this AD in accordance with Dassault Service Bulletin F2000EX–137, Revision 1, dated December 7, 2006. Doing the replacement required by paragraph (g) of this AD terminates the requirements of this paragraph.

(1) First, in the baggage compartment, on each mobile connector of the monitoring units (L320WG) and (R320WG), the equivalent resistance of the two engine detectors at the LH (left-hand) and the RH (right-hand) sides must be verified. According to findings, the corresponding system is either considered correct or incorrect.

(2) As a second step, if either one or both the LH and the RH system is (are) found to be incorrect, it is required to check the actual resistance of both detectors of the incorrect system(s) on the affected engine(s).

(3) Any faulty detector must be replaced prior to further flight.

(4) Actions done before February 2, 2007, in accordance with Dassault Service Bulletin F2000EX–137, dated November 23, 2006, are acceptable for compliance with the requirements of paragraph (f) of this AD.

New Requirements of This AD: Actions and Compliance

(g) Unless already done, within the next 12 months after the effective date of this AD, remove the two fire monitoring units having part number (P/N) 6342–01 and replace them with new ones having P/N 6342–02 in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000EX–138, dated March 5, 2007. Doing the replacement terminates the requirements of paragraph (f) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. 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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(i) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0119, dated May 2, 2007, and Dassault Service Bulletin F2000EX–138, dated March 5, 2007, for related information.

Issued in Renton, Washington, on July 23, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–17792 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0831; Directorate Identifier 2008–NM–051–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes and Model ERJ 190 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

It has been found the occurrence of failed bearings of the RAT [ram air turbine] generator, which may lead to a RAT generator failure. The RAT generator was designed to provide emergency electrical power to essential systems in case of loss of all other sources of aircraft AC electrical power.

* * * * *

Loss of emergency electrical power could result in reduced controllability of the airplane during in-flight emergencies. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 3, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0831; Directorate Identifier 2008–NM–051–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2007–12–01 and 2007–12–02, both effective January 24, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of failed bearings of the RAT [ram air turbine] generator, which may lead to a RAT generator failure. The RAT generator was designed to provide emergency electrical power to essential systems in case of loss of all other sources of aircraft AC electrical power.

Loss of emergency electrical power could result in reduced controllability of the airplane during in-flight emergencies. The corrective actions include determining the part number and serial number of the RAT, and re-identifying or replacing the RAT if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued Service Bulletins 170–24–0041, Revision 01, dated August 28, 2007; and 190–24–0012, Revision 01, dated August 21, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an 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 also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a **Note** within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 124 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $9,920, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira De Aeronautica S.A. (EMBRAER): Docket No. FAA–2008–0831; Directorate Identifier 2008–NM–051–AD.

Comments Due Date

(a) We must receive comments by September 3, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model ERJ 170–100 LR, –100 SE, –100 STD, –100 SU, –200 LR, –200 STD, and –200 SU airplanes; and Model ERJ 190–100 IGW, –100 LR, –100 STD, –100 ECJ, –200 IGW, –200 LR, and –200 STD airplanes; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical power.

Reason

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

It has been found the occurrence of failed bearings of the RAT [ram air turbine] generator, which may lead to a RAT generator failure. The RAT generator was designed to provide emergency electrical power to essential systems in case of loss of all other sources of aircraft AC electrical power.

Loss of emergency electrical power could result in reduced controllability of the airplane during in-flight emergencies. The corrective actions include determining the part number (P/N) and serial number (S/N) of the RAT, and re-identifying or replacing the RAT if necessary.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 1,300 flight hours or 6 months after the effective date of this AD, whichever occurs first, determine the P/N and S/N of the RAT. For airplanes on which a RAT having P/N 1703781 is installed, do the actions specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–24–0041, Revision 01, dated August 28, 2007; or 190–24–0012, Revision 01, dated August 21, 2007; as applicable.

(i) For airplanes on which the S/N on the RAT is 0110, 0150, 0255, or 0354 through 0419: Before further flight, re-identify RAT P/N 1703781 to P/N 1703781A.

(ii) For airplanes on which the S/N on the RAT is 0005, 0101 through 0109, 0111 through 0149, 0151 through 0254, or 0256 through 0353: Within 6,000 flight hours or 26 months after the effective date of this AD, whichever occurs first, replace the RAT with a RAT having P/N 1703781A.

(2) Previous accomplishment of the re-identification or replacement of the RAT before the effective date of this AD in accordance with EMBRAER Service Bulletin 170–24–0041 or 190–24–0012, both dated May 4, 2007, meets the requirements of (f)(1)(i) and (f)(1)(ii) of this AD, as applicable.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149. 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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2007–12–01 and 2007–12–02, both effective January 24, 2008, and EMBRAER Service Bulletins 170–24–0041, Revision 01, dated August 28, 2007; and 190–24–0012, Revision 01, dated August 21, 2007; for related information.

Issued in Renton, Washington, on July 23, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–17777 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–120844–07]

RIN 1545–BG70

Rules for Home Construction Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and Notice of Public Hearing.

SUMMARY: This document contains proposed regulations amending the regulations under § 1.460 to provide guidance to taxpayers in the home construction industry regarding accounting for certain long-term construction contracts that qualify as home construction contracts under section 460(e)(6) of the Internal Revenue Code (Code) and to provide guidance to taxpayers with long-term contracts under section 460(f) regarding certain changes in method of accounting for long-term contracts. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by November 3, 2008. Outlines of topics to be discussed at the public hearing scheduled for December 5, 2008, at 10 a.m. must be received by November 13, 2008.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–120844–07), room 5203, Internal Revenue Service, POB 7604 Ben Franklin Station, Washington, DC 20224. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–120844–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–120844–07). The public hearing will be held in the auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Brendan P. O'Hara, (202) 622–4920; concerning submission of comments, the hearing, or to be placed on the building access list to attend the hearing, Richard Hurst, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains a proposed amendment to the Income Tax Regulations, 26 CFR part 1, under section 460 and §§ 1.460–3, 1.460–4, 1.460–5 and 1.460–6 of the Income Tax Regulations. In general, section 460(a) requires taxpayers to use the percentage of completion method (PCM) to account for taxable income from any long-term contract. Section 460(e) exempts home construction contracts from the general requirement to use the percentage of completion method of accounting. Section 460(e)(6) defines a home construction contract to be any construction contract if 80 percent or more of the total estimated contract costs are reasonably expected to be attributable to the construction of (i) dwelling units contained in buildings containing 4 or fewer dwelling units, and (ii) improvements to real property directly related to such dwelling units and located on the site of such dwelling units. Section 460(e)(4) defines a construction contract to be any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvement of, real property.

These proposed regulations expand the types of contracts eligible for the home construction contract exemption and amend the rules for how taxpayer-initiated changes in methods of accounting to comply with the regulations under section 460 may be implemented.

Definition of a Home Construction Contract

Improvements to Real Property

The definition of a *construction contract* under section 460(e) includes many transactions involving land developers and construction service providers in the home construction industry. For example, a construction contract under section 460(e) includes a contract for the provision of land by the taxpayer if the estimated total allocable contract costs attributable to the taxpayer's construction activities (not including the cost of the land provided to the customer) are 10 percent or more of the contract's total contract price.

As noted, section 460(a) requires that the income from any long-term contract be recognized using the percentage of completion method. However, taxpayers with contracts that meet the definition of a ''home construction contract'' are not required to use the percentage of completion method for those contracts and may use an exempt method. Exempt methods commonly used to account for home construction contracts include the completed contract method (CCM) and the accrual method.

Under section 460, a home construction contract includes any construction contract if 80 percent of the total estimated contract costs are reasonably expected to be attributable to the construction of improvements to real property directly related to qualifying dwelling units and located on the site of such dwelling units. Commentators have suggested that many contracts entered into by land developers in the home construction industry should fall within the definition of a home construction contract.

The proposed regulations expand the scope of the home construction contract exemption by providing that a contract for the construction of common improvements is considered a contract for the construction of improvements to real property directly related to the dwelling unit(s) and located on the site of such dwelling unit(s), even if the contract is not for the construction of any dwelling unit. Therefore, under the proposed regulations, a land developer that is selling individual lots (and its contractors and subcontractors) may have long-term construction contracts that qualify for the home construction contract exemption.

Townhouses, Rowhouses, and Condominiums

Under section 460, a home construction contract also includes any construction contract if 80 percent of the total contract costs are reasonably expected to be attributable to the construction of dwelling units contained in buildings containing four or fewer dwelling units. Section 460(e)(6) states that each townhouse or rowhouse shall be treated as a separate building, regardless of the number of townhouses or rowhouses physically attached to each other. In certain circumstances, the terms condominium

and townhouse are used interchangeably to describe similar structures. Individual condominium units possess many of the characteristics generally associated with townhouses and rowhouses such as private ownership, shared portions of their structures, residential housing, and the economics of the underlying purchase transactions.

The proposed regulations expand what is considered a townhouse or rowhouse, for purposes of the home construction contract exemption, to include an individual condominium unit. This will have the effect of allowing each condominium unit to be treated as a separate building for purposes of determining whether the underlying contract qualifies as a home construction contract.

Completed Contract Method

Under the current regulations under section 460, the appropriate severing of a home construction contract requires a facts and circumstances analysis based upon certain factors that are neither specific nor always relevant to home construction contracts. Likewise, the date a home construction contract is considered completed and accepted is determined using a facts and circumstances analysis.

The IRS and Treasury Department are aware of controversies related to the application of the existing facts and circumstances analyses for determining the appropriate severance and final completion and acceptance of home construction contracts accounted for using the completed contract method. Expanding the definition of a home construction contract as provided in these proposed regulations may heighten the significance of these issues. As a result, the IRS and Treasury Department expect to propose specific severing and completion rules for home construction contracts accounted for using the completed contract method. Taxpayers are encouraged to submit comments on the types of severing and completion rules that would result in the clear reflection of income for home construction contracts accounted for using the completed contract method. Specifically, the IRS and the Treasury Department request comments on the circumstances (if any) in which it would not be appropriate to require severing and completion of a home construction contract to be determined on a dwelling unit by dwelling unit or lot by lot basis or, when a contract is not for the sale of a dwelling unit or lot, on the basis of when the taxpayer receives payment(s) under the contract.

Method of Accounting

Currently, the regulations under section 460 provide that a taxpayer that uses the percentage-of-completion method (PCM), the exempt-contract percentage-of-completion method (EPCM), or elects the 10-percent method or special alternative minimum taxable income (AMTI) method, or that adopts or elects a cost allocation method of accounting (or changes to another method of accounting with the Commissioner's consent) must apply the method(s) consistently for all similarly classified contracts until the taxpayer obtains the Commissioner's consent under section 446 to change to another method of accounting. The regulations further provide that a taxpayer-initiated change in method of accounting will be permitted only on a cut-off basis (that is, for contracts entered into on or after the year of change), and thus, a section 481(a) adjustment will not be permitted nor required. The proposed regulations continue this cut-off method of implementation but only for taxpayer-initiated changes from a permissible PCM method to another permissible PCM method for long-term contracts for which PCM is required and for taxpayer-initiated changes from a cost allocation method of accounting that complies with the cost allocation rules of § 1.460–5 to another cost allocation method of accounting that complies with the cost allocation rules of § 1.460–5. Under the proposed regulations all other taxpayer-initiated changes in method of accounting under section 460 will be made with a section 481(a) adjustment.

The proposed regulations provide that in determining the hypothetical underpayment or overpayment of tax for any year as part of the look-back computation, amounts reported as section 481(a) adjustments shall generally be taken into account in the tax year or years they are reported. For purposes of determining whether there is a hypothetical underpayment or overpayment of tax under the look-back computation, a taxpayer would use amounts reported under its old method for the years the old method was used and would use amounts reported under its new method for the years the new method was used, netted against the amount of any section 481(a) adjustments required to be taken into account. Thus, a look-back computation would not be required upon contract completion simply because the taxpayer has changed its method of accounting. However, a look-back computation would be required upon contract completion if actual costs or the contract price differ from the estimated amounts notwithstanding the fact a change in method of accounting occurred. For example, if a taxpayer using PCM changed its method of accounting for construction costs incurred in a contract reported under PCM, the section 460 look-back would be computed using the costs recognized prior to the year of change (reported under the taxpayer's old method of accounting) and the costs recognized in subsequent years using the new method of accounting, netted against any applicable section 481(a) adjustment. Similarly, for changes in methods of accounting where no costs were recognized under the old method of accounting (for example, a change in method of accounting from CCM to PCM), look-back would effectively only apply to years in which the taxpayer's new method of accounting was used to the extent that no costs were recognized prior to the year of change under the old method of accounting. This approach to the look-back computation is consistent with the underlying purpose of look-back as well as the general accounting method change procedures. Comments are specifically requested with respect to issues that taxpayers may foresee with respect to the rules provided in these proposed regulations for taking into account section 481(a) adjustments in the year reported for purposes of the look-back computation.

Proposed Effective/Applicability Date

These regulations are proposed to apply to taxable years beginning on or after the date the final regulations are published in the **Federal Register**. The final regulations will provide rules applicable to taxpayers that seek to change a method of accounting to comply with the rules contained in the final regulations. Taxpayers may not change or otherwise use a method of accounting in reliance upon the rules contained in these new proposed regulations until the rules are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code,

this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original with eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 5, 2008, beginning at 10 a.m., in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by November 13, 2008. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Brendan P. O'Hara, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.460–3 is amended by:

1. Revising paragraph (b)(1)(ii).

2. Redesignating paragraphs (b)(2)(ii), (b)(2)(iii) and (b)(2)(iv) as paragraphs (b)(2)(iii), (b)(2)(iv) and (b)(2)(v), respectively, and revising them.

3. Adding a new paragraph (b)(2)(ii).

The revisions and addition read as follows:

§ 1.460–3 Long-term construction contracts.

* * * * *

(b) * * *

(1) * * *

(ii) Construction contract, other than a home construction contract, that a taxpayer estimates (when entering into the contract) will be completed within 2 years of the contract commencement date, provided the taxpayer satisfies the $10,000,000 gross receipts test described in paragraph (b)(3) of this section.

(2) * * *

(ii) *Land improvements.* For purposes of paragraph (b)(2)(i)(B) of this section, improvements to real property directly related to, and located on the site of, the dwelling units consist of improvements to land on which dwelling units (as described in paragraph (b)(2)(i)(A) of this section) are constructed, and common improvements as defined in paragraph (b)(2)(iv) of this section. A long-term construction contract is a home construction contract if a taxpayer (including a subcontractor working for a general contractor) meets the 80% test in paragraph (b)(2)(i) of this section as applied to either paragraph (b)(2)(i)(A) of this section or paragraph (b)(2)(i)(B) of this section, or both paragraphs (b)(2)(i)(A) and (b)(2)(i)(B) of this section, collectively.

(iii) *Townhouses and rowhouses.* For purposes of determining whether a long-term construction contract is a home construction contract under paragraph (b)(2) of this section, each townhouse or rowhouse is a separate building. For this purpose, the term townhouse and rowhouse includes an individual condominium unit.

(iv) *Common improvements*—(A) *In general.* A taxpayer includes in the cost of a dwelling unit or land its allocable share of the cost that the taxpayer incurs for any common improvements that benefit the dwelling unit or land.

(B) *Definition.* For purposes of this section, a *common improvement* is an improvement that the taxpayer is contractually obligated, or required by law, to construct within the tract or tracts of land containing the dwelling units (or the land on which dwelling units are to be constructed) and that benefits the dwelling units (or the land on which dwelling units are to be constructed). In general, a common improvement does not solely benefit any particular dwelling unit or any particular lot on which a dwelling unit is constructed. However, land clearing and grading are common improvements, even when performed on a particular lot. Other examples of common improvements are sidewalks, sewers, roads and clubhouses.

(v) *Mixed use costs.* If a contract involves the construction of both commercial units and dwelling units, a taxpayer must allocate the costs among the commercial units and dwelling units using a reasonable method or combination of reasonable methods. In general, the reasonableness of an allocation method will be based on facts and circumstances. Examples of methods that may be reasonable are specific identification, square footage, or fair market value.

* * * * *

Par. 3. Section 1.460–4 is amended by:

1. Revising the third sentence in paragraph (c)(1).

2. Redesignating paragraph (g) as paragraph (g)(1) and revising newly redesignated paragraph (g)(1).

3. Adding a paragraph (g)(2).

4. Revising *Example 5.* of paragraph (h).

The revisions and additions read as follows:

§ 1.460–4 Methods of accounting for long-term contracts.

* * * * *

(c) * * *

(1) * * * Permissible exempt contract methods are the PCM, the EPCM described in paragraph (c)(2) of this section, the CCM described in paragraph (d) of this section, the accrual method, and any other permissible method.

* * *

* * * * *

(g) *Method of accounting*—(1) *In general.* A taxpayer must apply its method(s) of accounting for long-term contracts consistently for all similarly classified long-term contracts until the taxpayer obtains the Commissioner's

consent under section 446(e) to change to another method of accounting.

(2) *Taxpayer-initiated change in method of accounting*—(i) *Change to PCM for long-term contracts for which PCM is required.* A taxpayer-initiated change in method of accounting for long-term contracts (or portion thereof) for which income must be determined using the PCM described in paragraph (b) of this section and the costs allocation rules described in § 1.460–5(b) or (c) (required PCM contracts) from a method of accounting that does not comply with paragraph (b) of this section and § 1.460–5(b) or (c) to a method that complies with paragraph (b) of this section and § 1.460–5(b) or (c) must be applied to all required PCM contracts entered into before the year of change and not reported as completed as of the beginning of the year of change. Accordingly, a section 481(a) adjustment will be required.

(ii) *Change from a permissible PCM method to another permissible PCM method for long-term contracts for which PCM is required.* A taxpayer initiated change in method of accounting for required PCM contracts, as defined in paragraph (g)(2)(i) of this section (or a portion thereof), from a method of accounting that complies with paragraph (b) of this section and § 1.460–5(b) or (c) to another method of accounting that complies with paragraph (b) of this section and § 1.460–5(b) or (c) must be made on a cut-off basis and applied only to contracts entered into during and after the year of change. Accordingly, a section 481(a) adjustment will be neither permitted nor required.

(iii) *Change to an exempt contract method for home construction contracts.* A taxpayer-initiated change in method of accounting for home construction contracts, as defined in § 1.460–3(b)(2), to a permissible exempt contract method, as described in paragraph (c)(1) of this section, must be applied to all home construction contracts entered into before the year of change and not reported as completed as of the beginning of the year of change. Accordingly, a section 481(a) adjustment will be required.

(iv) *Change to an exempt contract method for exempt contracts other than home construction contracts.* A taxpayer-initiated change in method of accounting for long-term contracts (or portion thereof) not described in paragraphs (g)(2)(i), (ii) and (iii) of this section to a permissible exempt contract method as described in paragraph (c)(1) of this section must be applied to all contracts that are eligible to use the exempt contract method entered into before the year of change and not reported as completed as of the beginning of the year of change. Accordingly, a section 481(a) adjustment will be required.

(h) * * *

* * * * *

Example 5. PCM—contract terminated. C, whose taxable year ends December 31, determines the income from long-term contracts using the PCM. During 2001, C buys land and begins constructing a building that will contain 50 apartment units on that land. C enters into a contract to sell the building to B for $2,400,000. B gives C a $50,000 deposit toward the purchase price. By the end of 2001, C has incurred $500,000 of allocable contract costs on the building and estimates that the total allocable contract costs on the building will be $1,500,000. Thus, for 2001, C reports gross receipts of $800,000 ($500,000/$1,500,000 × $2,400,000), current-year costs of $500,000, and gross income of $300,000 ($800,000 − $500,000). In 2002, after C has incurred an additional $250,000 of allocable contract costs on the building, B files for bankruptcy protection and defaults on the contract with C, who is permitted to keep B's $50,000 deposit as liquidated damages. In 2002, C reverses the transaction with B under paragraph (b)(7) of this section and reports a loss of $300,000 ($500,000 − $800,000). In addition, C obtains an adjusted basis in the building sold to B of $700,000 ($500,000 (current-year costs deducted in 2001) − $50,000 (B's forfeited deposit) + $250,000 (current-year costs incurred in 2002). C may not apply the look-back method to this contract in 2002.

* * * * *

Par. 4. Section 1.460–5 is amended by:

1. Adding a new sentence to the end of paragraph (c)(2).

2. Revising paragraph (g).

The revision and addition read as follows:

§ 1.460–5 Cost allocation rules.

* * * * *

(c) * * *

(2) * * * Further, this election is not available if a taxpayer is changing from a cost allocation method other than as prescribed in paragraph (b) of this section, in which case the taxpayer must follow the procedures under § 1.446–1(e) for obtaining the Commissioner's consent for the change in method of accounting.

* * * * *

(g) *Method of accounting.* A taxpayer that adopts, elects, or otherwise changes to a cost allocation method of accounting (or changes to another cost allocation method of accounting with the Commissioner's consent) must apply that method consistently for all similarly classified contracts, until the taxpayer obtains the Commissioner's consent under section 446 to change to another cost allocation method. A taxpayer-initiated change in cost allocation method from a method that does not comply with the cost allocation rules of this section to a method that complies with the cost allocation rules of this section must be applied to all long-term contracts to which the rules of this section apply, including contracts entered into before the year of change and not reported as completed as of the beginning of the year of change. Accordingly, a section 481(a) adjustment is required. Any other taxpayer-initiated change in cost allocation method to a method permitted under the rules of this section must be made on a cut-off basis and applied only to contracts entered into during and after the year of change, in which case a section 481(a) adjustment will be neither permitted nor required.

Par. 5. Section 1.460–6 is amended by:

1. Adding paragraph (c)(3)(vii).

2. Redesignating paragraph (d)(2)(iv) as paragraph (d)(2)(v).

3. Adding a new paragraph (d)(2)(iv).

The additions and revision read as follows:

§ 1.460–6 Look-back method.

* * * * *

(c) * * *

(3) * * *

(vii) *Section 481(a) adjustments.* For purposes of determining the hypothetical underpayment or overpayment of tax for any year, amounts reported as section 481(a) adjustments shall be taken into account in the tax year or years they are reported. However, any portion of a section 481(a) adjustment not yet reported as of the tax year in which the contract is completed shall be taken into account in the tax year the contract is completed for purposes of determining the hypothetical underpayment or overpayment of tax.

* * * * *

(d) * * *

(2) * * *

(iv) *Section 481(a) adjustments.* For purposes of determining the hypothetical underpayment or overpayment of tax for any year under the simplified marginal impact method, amounts reported as section 481(a) adjustments shall be taken into account in the tax year or years they are reported. However, any portion of a section 481(a) adjustment not yet reported as of the tax year in which the contract is completed shall be taken into account in the tax year the contract is completed for purposes of determining

the hypothetical underpayment or overpayment of tax.

* * * * *

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E8–17830 Filed 8–1–08; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0003; FRL–8696–4]

Approval and Promulgation of Air Quality Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Illinois State Implementation Plan (SIP) for ozone. The state is incorporating revisions EPA made to its definition of volatile organic compound (VOC). This SIP revision adds one compound to the list of compounds that are exempt from being considered a VOC. This is because it was determined that the listed compound does not contribute to ozone formation.

DATES: Comments must be received on or before September 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0003, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 886–5824.
4. *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.
5. *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 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal 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: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov*.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that, if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions 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: July 14, 2008.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E8–17698 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2008–0501; FRL–8698–8]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Indiana Department of Environmental Management on May 22, 2008, to revise the Indiana State Implementation Plan (SIP). The submission revises the Indiana Administrative Code (IAC) by amending and updating the definition of ''References to Code of Federal Regulations,'' to refer to the 2007 edition.

In the final rules section of this **Federal Register**, EPA is approving the SIP revision as a direct final rule without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we do not receive any adverse comments in response to these direct final and proposed rules, we do not contemplate taking any further action in relation to this proposed rule. If EPA receives adverse comments, we will withdraw the direct final rule and will respond to all public comments in a subsequent final rule based on this proposed rule. 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.

DATES: Comments must be received on or before September 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2008–0501 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 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 Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal 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: Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions 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: July 21, 2008.

Walter W Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E8–17704 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0004; FRL–8700–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to correct its June 12, 2006, approval of a revision to the Indiana State Implementation Plan (SIP) for ozone in which it approved Indiana's exclusion of ethylene glycol monobutyl ether (EGBE), a hazardous air pollutant (HAP), as a revision to the SIP. As discussed further below, this proposed action is based upon the fact that HAPs are regulated under Section 112 of the Clean Air Act (Act). State programs related to HAPs are governed by Section 112(l) of the Act and should not be included in the SIP under Section 110, which addresses national ambient air quality standards (NAAQS) for criteria pollutants. Therefore, pursuant to section 110(k)(6) of the Act, which allows EPA to correct SIP actions made in error, EPA is proposing to rescind its exclusion of EGBE from Indiana's ozone SIP. It should be noted that EPA delisted EGBE as a HAP on November 29, 2004.

DATES: Comments must be received on or before September 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0004, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov*.
3. *Fax:* (312) 886–5824.
4. *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.
5. *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 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business 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–2006–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. 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. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the 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 legal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052, *rosenthal.steven@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What action is EPA taking today and what is the basis for this action?

Section 110 of the Act is the authority under which Congress has directed EPA to act on SIPs and SIP revisions. Section 110(a) establishes the applicable procedures for SIP development and submission. The trigger for these activities is the promulgation of NAAQS; and the focus of the State's efforts is to develop ''a plan which provides for implementation, maintenance, and enforcement'' of the NAAQS. Section 110(a)(1). EPA must then determine whether the submission contains the air quality-related components prescribed in section 110(a)(2).

Other than for lead, which is both a HAP and criteria pollutant, Section 110 does not provide parameters to determine the approvability of a HAP provision. Instead, in the 1990 Amendments to the Act, Congress envisioned that HAPs (including the then-listed EGBE) would be regulated under section 112. State programs for hazardous pollutants, including delegations, are governed by section 112(l) of the Act. They should not be included in the SIP under section 110. EPA is, therefore, proposing to correct its June 12, 2006, approval of Indiana's requested revision to delete EGBE from the definition of ''hazardous air pollutant'' in 326 IAC 1–2–33.5.

Section 110(k)(6) of the Act provides that whenever EPA determines that its action approving, disapproving, or promulgating any plan or plan revision (or part thereof), * * * was in error, EPA may revise such action as appropriate without requiring any further submission from the State. Therefore, under section 110(k)(6), EPA is rescinding its exclusion of EGBE from Indiana's definition of HAP, as well as Indiana's definition of HAP in 326 IAC 1–2–33.5, from Indiana's ozone SIP.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed 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 proposes to correct an error and to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to correct an error and approve preexisting 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 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). 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 correct an error and approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Hazardous air pollutants, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 22, 2008.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E8–17809 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2006–0386; FRL–8700–1]

Approval and Promulgation of Implementation Plans; Texas; El Paso County Carbon Monoxide Redesignation to Attainment, and Approval of Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 13, 2008, the Texas Commission on Environmental Quality (TCEQ) submitted a State Implementation Plan (SIP) revision to request redesignation of the El Paso carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). This submittal also included a CO maintenance plan for the El Paso area and associated Motor Vehicle Emission Budgets (MVEBs). The maintenance plan was developed to ensure continued attainment of the CO NAAQS for a period of 10 years from the effective date of EPA approval of redesignation to attainment. In this action, EPA is proposing to approve the

El Paso CO redesignation request and the maintenance plan with its associated MVEBs as satisfying the requirements of the Federal Clean Air Act (CAA) as amended in 1990.

DATES: Written comments must be received by September 3, 2008.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–8542; fax number 214–665–7263; e-mail address *riley.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

This document proposes to take action on SIP revisions pertaining to the El Paso area. We have published a direct final rule approving the State's SIP revisions in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no relevant adverse comment, we will not take further action on this proposed rule. If we receive relevant adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Dated: July 18, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. E8–17701 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[EPA–R09–RCRA–2008–0354; FRL–8700–3]

Tentative Determination to Approve Research, Development, and Demonstration Request for the Salt River Landfill, and Proposed Finding of No Adverse Effect Under the National Historic Preservation Act; Opportunity for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency Region IX is making a tentative determination to approve a research, development, and demonstration (RD&D) project at the Salt River Landfill, a commercial municipal solid waste landfill (MSWLF) owned and operated by the Salt River Pima-Maricopa County Indian Community (SRPMIC) on the SRPMIC reservation in Arizona. EPA is seeking public comment on EPA's tentative determination to approve SRPMIC's RD&D project. Pursuant to the National Historic Preservation Act (NHPA), EPA is also seeking public comment on EPA's proposed Area of Potential Effects (APE), the proposed finding that the Arizona Canal is the sole historic property within the APE, and the proposed finding that the RD&D project will not adversely affect the Arizona Canal.

DATES: Comments must be received on or before September 30, 2008. If sufficient public interest is expressed, EPA will hold a public hearing at 11 a.m. on September 30, 2008. If by September 18, 2008, EPA does not receive information indicating sufficient public interest for a public hearing, EPA may cancel the public hearing with no further notice. If you are interested in attending the public hearing, contact Karen Ueno at (415) 972–3317 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–RCRA–2008–0354 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ueno.karen@epa.gov.*
- *Fax:* (415) 947–3530
- *Mail:* Karen Ueno, Environmental Protection Agency Region IX, Mailcode: WST–7, 75 Hawthorne Street, San Francisco, CA 94105–3901.
- *Hand Delivery:* Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA. Such deliveries are only accepted during the Docket Facility's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–RCRA–2008–0354. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. 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 docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Docket Facility located at the Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, California. A complete public portion of the administrative record for this rulemaking is also available for review at the Docket Facility upon request. The Docket Facility is open from 9 a.m. to 4 p.m., Monday through

Thursday, excluding legal holidays, and is located in a secured building. To review docket materials at the Docket facility, it is recommended that the public make an appointment by calling the Docket Facility at (415) 947–4406 during normal business hours.

Submitting Comments to EPA:

1. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

2. Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

3. Docket Copying Costs. Copying arrangements will be made through the Docket Facility and billed directly to the recipient. Copying costs may be waived depending on the total number of pages copied.

If sufficient public interest is expressed, EPA will hold a public hearing at 11 a.m. on September 30, 2008 in Conference Room A of the offices of the U.S. Bureau of Indian Affairs, 400 North 5th Street, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Karen Ueno, Waste Management Division, WST–7, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105–3901; telephone number: (415) 972–3317; fax number: (415) 947–3530; e-mail address: *ueno.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Background

Under sections 1008, 2002, 4004, and 4010 of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA established revised minimum federal criteria for MSWLFs, including landfill location restrictions, operating standards, design standards and requirements for ground water monitoring, corrective action, closure and post-closure care, and financial assurance. Under RCRA section 4005, states are to develop permit programs for facilities that may receive household hazardous waste or waste from conditionally exempt small quantity generators, and EPA determines whether the program is adequate to ensure that facilities will comply with the revised criteria.

The MSWLF criteria are in the Code of Federal Regulations at 40 CFR part 258. These regulations are self-implementing and apply directly to owners and operators of MSWLFs. For many of these criteria, 40 CFR part 258 includes a flexible performance standard as an alternative to the self-implementing regulation. The flexible standard is not self-implementing, and use of the alternative standard requires approval by the Director of an EPA-approved state.

Since EPA's approval of a state program does not extend to Indian country, owners and operators of MSWLF units located in Indian country cannot take advantage of the flexibilities available to those facilities subject to an approved state program. However, the EPA has the authority under sections 2002, 4004, and 4010 of RCRA to promulgate site-specific rules that may provide for use of alternative standards. See *Yankton Sioux Tribe* v. *EPA,* 950 F. Supp. 1471 (D.S.D. 1996); *Backcountry Against Dumps* v. *EPA,* 100 F.3d 147 (D.C. Cir. 1996). EPA has developed draft guidance on preparing a site-specific request to provide flexibility to owners or operators of MSWLFs in Indian country (Site-Specific Flexibility Requests for Municipal Solid Waste Landfills in Indian Country Draft Guidance, EPA530–R–97–016, August 1997).

On March 22, 2004, EPA issued a final rule at 40 CFR 258.4 amending the municipal solid waste landfill criteria to allow for RD&D permits. (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time. Specifically, the rule allows for the Director of an approved state to issue a time-limited RD&D permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to use innovative and new methods which vary from either or both of the following: (1) The run-on control systems at 40 CFR 258.26(a)(1); and/or (2) the liquids restrictions at 40 CFR 258.28(a), provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30-cm depth of leachate on the liner. The rule also allows for the issuance of a time-limited RD&D permit for which the owner or operator proposes to use innovative and new methods that vary from the final cover criteria at 40 CFR 258.60(a)(1) and (2), and (b)(1), provided that the owner or operator demonstrates that the infiltration of liquid through the alternative cover system will not cause contamination to groundwater or surface water, or cause leachate depth on the liner to exceed 30 cm. RD&D permits must include such terms and conditions at least as protective as the criteria for MSWLFs to assure protection of human health and the environment. An RD&D permit cannot exceed three years and a renewal of an RD&D permit cannot exceed three years. Although multiple renewals of an RD&D permit can be issued, the current total term for an RD&D permit including renewals cannot exceed twelve years. In adopting the RD&D rule, EPA stated that RD&D facilities in Indian country could be approved in a site-specific rule.

B. SRPMIC's Site-Specific Flexibility Request

The Salt River Landfill is a municipal solid waste landfill owned and operated by the SPRMIC on the SRPMIC's reservation in Arizona. The landfill site is approximately 200 acres. The Salt River Landfill has been in operation since October 1993 and serves as a solid waste collection and disposal point for Maricopa County, Arizona. The landfill consists of 8 disposal cells within 6 waste disposal areas. The latter are identified as Phases I—VI. Phase VI is divided into three cells: VIA, VIB, and

VIC. Construction of Phase VI, which is the last below-grade excavation planned for the landfill, is complete. The landfill accepts approximately 2,200 tons of solid waste per day and has composting and material recovery facilities on-site. The Phases/cells relevant to this site-specific flexibility request are Phases IIIB, IVA, VIA, VIB, and VIC.

In January 2005, the SRPMIC submitted a site-specific flexibility application request to EPA for the Salt River Landfill. The request is twofold. It seeks EPA approval to use innovative and new methods which vary from the liquids restrictions at 40 CFR 258.28(a), as allowed by EPA's RD&D regulations at 40 CFR 258.4. It also seeks approval to install an alternative bottom liner, as allowed by EPA's regulations at 40 CFR 258.40. Specifically, SRPMIC is seeking to install an alternative bottom liner system in and to operate Phase VI as a below grade anaerobic bioreactor. SRPMIC is also seeking to add certain liquids to two existing waste disposal cells within the landfill, Phase IIIB and Phase IVA, which were constructed with an alternative bottom liner system previously approved by EPA (63 FR 68453, Dec. 11, 1998).

Between January 2005 and April 2008, the SRPMIC made revisions to its application request in response to concerns raised by EPA. EPA is basing its tentative determination and this proposed rule on the application, dated September 24, 2007, and the April 2008 amendments to that application. The specific requests for EPA approval in SRPMIC's application are discussed below. As set forth in more detail below, EPA is proposing to approve the request and allow SRPMIC to install an alternative bottom liner system in Phase VI, and to operate Phases VI, IIIB, and IVA using innovative and new methods which vary from the liquids restrictions at 40 CFR 258.28(a). This tentative determination is based on 40 CFR 258.40 and 40 CFR 258.4, respectively.

1. Phase VI: Approval to Install an Alternative Bottom Liner System in and to Add Certain Liquids to Phase VI

The SRPMIC is seeking EPA approval to use an alternative bottom liner system in each of the Phase VI cells (Phase VIA, B, and C). SRPMIC proposes to replace the 24-inch compacted clay liner of the composite liner system with a geosynthetic clay liner. As provided in 40 CFR 258.40(a)(1), SRPMIC must ensure that the alternative liner system does not allow the concentration of the chemicals listed in Table 1 of 40 CFR 258.40 to be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by EPA.

To create bioreactor conditions in Phase VI, SRMPIC is also seeking EPA approval to recirculate leachate and landfill gas condensate, and to add storm water and groundwater. A bioreactor uses large amounts of liquids to accelerate the biodegradation of waste by increasing the moisture content of the waste. In turn, enhanced biodegradation is expected to increase the capacity of the cell and extend its operating life. Without approval as provided in the RD&D rule, MSWLFs are restricted from adding bulk or noncontanerized liquids to cells, and from recirculating leachate and landfill gas in cells designed with alternative liner systems.

SRPMIC proposes to recirculate leachate and landfill gas condensate, and to add storm water and groundwater to the Phase VI cells. Only these types of liquids will be added to Phase VI, and only to the below grade portions of this Phase. SRPMIC will introduce these liquids into Phase VI using two methods: Moisture addition at the working face of the cells, and moisture addition through a series of below-grade horizontal pipe galleries. The horizontal pipe galleries will be constructed below-grade as landfilling progresses in Phase VI. Each horizontal pipe gallery will first be used to collect landfill gas before being converted to a liquids addition pipe gallery. The conversion to liquids addition will not occur until the pipe gallery above it is installed and collecting landfill gas. SRPMIC will install at least two layers of horizontal pipe galleries in the above-grade portion of Phase VI. These above-ground horizontal pipe galleries will be for the sole purpose of collecting gas.

SRPMIC will monitor for fugitive gas emissions at least annually using ground-based optical remote sensing in accordance with EPA's approved method (EPA OTM–10). Increases to fugitive gas emission are a concern with bioreactor operations due to the enhanced biological degradation of the solid waste and the associated rise in the amount of gas generated. SRPMIC will monitor for fugitive emission and use this and other monitoring and operating information collected to better project the amount of landfill gas generated and the performance of the landfill gas collection system.

In addition to increasing the amount of gas generated, bioreactors increase the amount of leachate produced. SRPMIC's design for Phase VI includes a separate leachate collection and recovery system in each of the three cells to support the increase in leachate production associated with bioreactor operation. SRPMIC performed modeling to estimate peak leachate depth on the liner to help ensure that the federal regulatory limit of less than 30-cm would be maintained. The leachate collection system is equipped with an alarm that is triggered in response to any depth of leachate on the liner outside of the sump (for example, if the sump is not fully draining).

SRPMIC will collect data and results related to the operation of Phase VI, including the quality and quantity of gas and leachate generated, and the efficiency of the landfill gas and leachate capture systems. As stated in SRPMIC's application of September 24, 2007, and the April 2008 amendments to that application, an overarching goal is to demonstrate that the proposed operation of Phase VI does not increase risk to human health and the environment over a standard MSWLF permit.

2. Phase IIIB and IVA: Approval to Add Certain Liquids to Below Grade Portions of Cells With Previously EPA-Approved Alternative Bottom Liner Systems

SRPMIC is seeking EPA approval to add certain liquids to below-grade portions of two existing cells, Phases IIIB and IVA, each of which were constructed using an alternative bottom liner system previously approved by EPA (63 FR 68453, December 11, 1998). As noted, above, without approval as provided in the RD&D rule, MSWLFs are restricted from adding bulk or noncontanerized liquids to cells, and from recirculating leachate and landfill gas condensate in cells designed with alternative liner systems.

SRPMIC proposes to add liquids to Phases IIIB and IVA, but does not intend to increase the moisture content of the solid waste mass to a bioreactor level (40 CFR 63.1990 defines ''bioreactor'' as reaching a minimum average moisture content of at least 40% by weight). SRPMIC is seeking to add only 25% of the liquids volume that would be needed to increase moisture content to 40%. SRPMIC proposes to increase the moisture content of the waste mass by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater. Only these types of liquids will be added to Phases IIIB and IVA, and only to the below grade portions of these Phases.

SRPMIC will add the liquids using the existing gas collection pipes in these cells. Field practice and research have shown that using the same pipe galleries to both collect gas and distribute liquids can negatively affect the gas collection efficiency of the pipes. SRPMIC will monitor the gas flow. If the gas flow rate drops below 50% of the pre-liquids

injection rate, SRPMIC will suspend liquids injection until gas flow rebounds to 75% of the pre-liquids injection rate.

As proposed for Phase VI, SRPMIC will monitor for fugitive gas emission and use this and other monitoring and operating information to better project the amount of landfill gas generated and the performance of the landfill gas collection system. SRPMIC will collect data and results related to the operation of Phases IIIB and IVA, including the quality and quantity of gas and leachate generated, and the efficiency of the landfill gas and leachate capture systems.

SRPMIC has performed modeling to determine how much liquid can be added annually to Phases IIIB and IVA to, among other things, keep the depth of leachate on the liner to less than 30 cm as required by the federal regulations. SRPMIC is required to suspend adding liquids to Phases IIIB and IVA if operating parameters are not being met, including depth of leachate on the liner at or over 30 cm, ponding, gas collection difficulty, and seeps. As stated in SRPMIC's application of September 24, 2007, and the April 2008 amendments to that application, an overarching goal is to demonstrate that the proposed operation of Phase IIIB and IVA does not increase risk to human health and the environment over a standard MSWLF permit.

To further reduce the potential risk posed by increased liquids addition and leachate generation from Phases VI, IIIB, and IVA, SRPMIC will install a new groundwater monitoring network of 7 wells. The network will be used to monitor the uppermost portion of the aquifer for changes to groundwater elevation and quality. SRPMIC shall maintain at least a 25-foot separation zone between the bottom of the landfill and groundwater. SRPMIC will also monitor liquids balance (how much liquid is being deposited into the landfill compared to how much is being collected), mass balance (the mass of the materials deposited into the landfill, compared to the mass of what is being collected), and waste volume and settlement.

II. EPA's Action

A. Tentative Determination To Approve SRPMIC's Site-Specific Flexibility Request

After completing a review of SRPMIC's final site-specific flexibility application request, dated September 27, 2007, and the amendments to that application, dated April 2008, EPA is proposing to approve SRPMIC's site-specific flexibility request to: (1) Install an alternative bottom liner system in Phase VI and to operate Phase VI as an anaerobic bioreactor by recirclating leachate and landfill gas condensate, and adding storm water and groundwater to the below grade portions of Phase VI; and (2) recirculate leachate and landfill gas condensate and add storm water and groundwater to the below grade portions of Phases IIIB and IVA to increase the moisture content of the waste mass in these phases, both of which have previously EPA-approved alternative bottom liner systems.

EPA is basing its tentative determination on a number of factors, including SRPMIC's overarching goal to demonstrate protection of human health and the environment, and the requirement of today's rule to maintain less than 30-cm depth of leachate on the liner.

EPA considered certain issues pertaining to the proposed RD&D project, including the potential for increased leachate production and increased landfill gas generation and fugitive emissions from operation of the bioreactor. With respect to the potential for increased leachate production, SRPMIC performed modeling to project the impact of liquids addition on the liner and peak leachate production rates, and to assess the adequacy of the leachate collection system design capacity. This modeling demonstrated that the leachate collection system is designed to appropriately handle the amount of anticipated leachate and that the increase in liquids should not adversely affect the performance of the liner system in protecting groundwater. SRPMIC will also maintain a 25-foot or greater separation zone between the bottom of the landfill and the top of the groundwater aquifer. SRPMIC will routinely monitor leachate quantity and quality, liquids balance, volume and settlement of the waste, and groundwater quality and levels. By monitoring, SRPMIC will be able to ensure effective and protective ongoing operations of these Phases of the landfill and provide data for EPA to use in its ongoing RD&D study.

With respect to the potential for increased landfill gas generation and fugitive gas emissions, SRPMIC will ensure that each horizontal pipe gallery in Phase VI will be used to collect landfill gas before being converted for liquids addition to reduce the risk of negatively affecting the gas collection efficiency of the pipe gallery. No pipe gallery will be converted to liquids addition until the pipe gallery above it is installed and collecting landfill gas. SRPMIC also will install at least two layers of horizontal pipe galleries in the above-grade portion of Phase VI for the sole purpose of collecting gas. To further reduce the risk of increased landfill gas generation and fugitive emissions, SRPMIC will only add liquids to the below-grade portions of Phases VI, IIIB, and IVA. SRPMIC will monitor fugitive gas emissions annually or more frequently, as appropriate, using ground-based optical remote sensing (EPA OTM–10), and will routinely monitor landfill gas quantity and quality. Using information gained from the monitoring program, SRPMIC will propose site-specific input parameters to EPA that improve modeling calculations for the amount of landfill gas generated and the performance of landfill gas collection systems.

In the event that EPA determines that the project goals are not being attained, including protecting human health and the environment, EPA may terminate SRPMIC's authority to operate the RD&D project.

As part of this tentative determination, and in accordance with 40 CFR 258.4, EPA is proposing to require SRPMIC to maintain less than 30 cm depth of leachate on the liner in Phases VI, IIIB, and IVA, and to ensure that the approved operation of these Phases is protective of human health and the environment. For purposes of the alternative liner system in Phase VI, the relevant point(s) of compliance pursuant to 40 CFR 258.40 will be determined by EPA and shall be no more than 150 meters from the waste management cell boundaries and located on land owned by the owner of the cells.

In accordance with its application, SRPMIC will submit annual reports to EPA that summarize and show whether and to what extent RD&D project goals are being achieved. The annual report will include a summary of all monitoring and testing results. Any deviations from the September 27, 2007 application, and the April 2008 amendments to that application, must continue to conform to the standards set forth in 40 CFR 258.4 and require the prior approval of EPA.

Also in accordance with its application, SRPMIC will arrange for independent, third party inspections of the RD&D operations on a quarterly basis throughout the term of the RD&D approval. Copies of the report will be submitted to EPA.

The tentative determination would allow operation of the subject Phases of the landfill consistent with the RD&D rule for a total of 12 years. However, the owner or operator of the landfill must seek a renewal of this authority every

three years. EPA is proposing to allow operation of the landfill cells in accordance with the RD&D rule for three years, but the operator may request a renewal of the authorization by submitting a request to the Director of the Waste Management Division. Each renewal request would be subject to public notice and comment. No renewal may be for greater than three years and the overall period of operation may not exceed twelve years.

B. Proposed Finding of No Adverse Effect Under NHPA

As part of the NHPA process, EPA is proposing a ½-mile radius around the Salt River Landfill as the area of potential effects (APE). An APE is the geographic area within which a project may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. In proposing a ½-mile APE, EPA considered that SRPMIC's request is of a limited nature at a landfill that already exists and has been operating since 1993. EPA's proposed APE is consistent with the policy of the Archaeology Department of SRPMIC's Environmental Protection and Natural Resources Division. SRPMIC does not have a Tribal Historic Preservation Officer (THPO).

In accordance with the NHPA, EPA consulted with SRPMIC's Archaeology Department, the Arizona State Historic Preservation Officer, the U.S. Bureau of Reclamation, the Salt River Project, the U.S. Bureau of Indian Affairs and nearby certified local governments on SRPMIC's RD&D request and reviewed the NHPA requirements. EPA provided the following tribes, who may have a cultural or historic interest within the proposed APE, with an opportunity to identify such cultural or historic properties: Ak-Chin Indian Community; Fort McDowell Yavapai Nation; Gila River Indian Community; Hopi Tribe; Pascua Yaqui Tribe; Tohono O'odham Nation; Yavapai-Apache Nation; Yavapai-Prescott Indian Tribe. No cultural or historic property was identified by these tribes, nor was any interest expressed to further consult with EPA.

Only one historic property, the Arizona Canal, has been identified within the proposed APE. The Arizona Canal and associated access roads and banks are the property of the U.S. Bureau of Reclamation. Construction of the Arizona Canal began in 1883. It is a concrete-lined structure that continues to distribute water for domestic and irrigation uses in Maricopa County. The canal banks support a variety of non-motorized recreation activities, such as hiking, bicycling, walking, and jogging.

The northern border of the Salt River Landfill is adjacent to the Arizona Canal. An eight-foot fence separates the landfill and the canal, and at its closest proximity, the fence is approximately 50 feet away from the canal. An additional 10–30 feet separates the fence from the proposed locations of the new groundwater wells nearest to the canal. Recreational use of the canal is restricted and minimized in the vicinity of the SRPMIC border.

The proposed SRPMIC RD&D project could potentially impact the Arizona Canal in three ways: (1) Off-site migration of leachate, (2) disturbance from the installation of the 7 new groundwater monitoring network wells, and (3) fugitive gas emissions.

It is not likely that there would be off-site migration of leachate via the groundwater or surface water pathways. With respect to the groundwater pathway, SRPMIC will maintain a 25-foot or greater zone of separation between the bottom of the landfill and the top of the aquifer to prevent leachate from coming into contact with groundwater. Each waste cell is or will be equipped with a bottom liner and leachate collection system to further reduce the risk of off-site leachate migration. With respect to the surface water pathway, the leachate retention pond has the estimated capacity to accommodate the additional leachate projected to be generated from Phases VI, IIIA, and IVB, even when leachate is not being recirculated back into the landfill. Stormwater is retained on-site and stormwater retention capacity will continue to be increased by SRPMIC throughout the life of the landfill. The canal, itself, is protected by berms and is at a higher elevation than the landfill. Surface water from the landfill does not flow towards the canal.

The installation of 7 new groundwater monitoring wells should not have an adverse impact on the canal. The noise, equipment, vehicles, and possible dust associated with installing wells should not affect recreation use of the canal because the installation process is short-term, and recreation use is restricted and minimized along the SRPMIC border. In addition, the proposed well locations and the canal are separated by an eight-foot fence and a distance of 60 feet or more. Because surface water does not move from the landfill towards the canal, and because storm water is retained on-site, it is not likely that loosened sediment from ground disturbance would find a ready pathway to the canal.

Increased gas generation and emissions should not negatively impact the canal, as the canal is made of concrete, an inert building material. As required by EPA approval of the proposed RD&D project, each of the waste cells have or will have a gas collection and control system, and SRPMIC will routinely monitor the quality and quantity of landfill gas and fugitive emissions, and assess collection efficiency. The gas that is collected will be destroyed at the landfill's flare station or converted into energy. To the extent there are increased fugitive emissions, recreational use of the canal should not be adversely affected since there are few, if any, such uses along the SRPMIC border of the canal.

Pursuant to section 106 of the NHPA, EPA has reviewed SRPMIC's site-specific flexibility request to take into account the effect of the proposed RD&D project on historic properties. EPA requests public comment on its proposed ½-mile area of potential effects, its proposed finding that the Arizona Canal is the sole historic property within the APE, and its proposed finding of no adverse effect.

III. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (*58 FR 51735*, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB).

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.*) because it applies to a particular facility only.

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (*5 U.S.C. 601 et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this rule will affect only a particular facility, 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, ''Federalism,'' (*64 FR 43255*, August 10,

1999). Thus, Executive Order 13132 does not apply to this rule.

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 is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is EPA's conservative analysis of the potential risks posed by SRPMIC's proposal and the controls and standards set forth in the application.

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (*66 FR 28355*, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (*61 FR 4729*, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments,'' (*65 FR 67249*, November 9, 2000), calls for 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.'' EPA has concluded that this action may have tribal implications because it is directly applicable to the owner and/or operator of the landfill, which is currently the Tribe. However, this tentative determination, if made final, will neither impose substantial direct compliance costs on tribal governments, nor preempt Tribal law. This tentative determination to approve the SRPMIC's application will affect only the SRPMIC's operation of their landfill on their own land.

EPA consulted with the SRPMIC early in the process of making this tentative determination to approve the Tribe's RD&D project so as to give them meaningful and timely input into the determination. In 2005, SRPMIC submitted its site-specific RD&D flexibility request. Between 2005 and 2008, many technical issues were raised and addressed concerning SRPMIC's proposal. EPA's consultation with the Tribe culminated in the SRPMIC submitting an RD&D application amendment in April of 2008.

With respect to the type of flexibility being afforded to SRPMIC under this proposed rule, Executive Order 13175 does provide for agencies to review applications for flexibility ''with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.'' In formulating this tentative determination and proposed rule, the Region has been guided by the fundamental principles set forth in Executive Order 13175 and has granted the SRPMIC the ''maximum administrative discretion possible'' within the standards set forth under the RD&D rule in accordance with Executive Order 13175.

EPA specifically solicits any additional comment on this tentative determination from tribal officials of the SRPMIC.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (*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 law 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 decides not to use available and applicable voluntary consensus standards.

The technical standards included in the application were proposed by SRPMIC. Given EPA's obligations under Executive Order 13175 (see above), the Agency has, to the extent appropriate, applied the standards established by the Tribe. In addition, the Agency considered the Interstate Technology and Regulatory Council's February 2006 technical and regulatory guideline ''Characterization, Design, Construction, and Monitoring of Bioreactor Landfills.''

Authority: Sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6907, 6912, 6944, and 6949a. Temporary Delegation of Authority to Promulgate Site-Specific Rules to Respond to Requests for Flexibility from Owners/Operators of Municipal Solid Waste Landfill Facilities in Indian Country, February 26, 2008, Incorporation by Reference.

List of Subjects in 40 CFR Part 258

Environmental protection, Municipal landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: July 23, 2008.

Wayne Nastri,

Regional Administrator, Region IX.

For the reasons stated in the preamble, 40 CFR part 258 is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

Subpart D—[Amended]

1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c), 6981(a).

2. Amend subpart D by adding § 258.42 to read as follows:

§ 258.42 Approval of Site-specific Flexibility Requests in Indian Country.

(a) Salt River Pima-Maricopa Indian Community (SRPMIC), Salt River Landfill Research, Development, and Demonstration Project Requirements. Paragraph (a) of this section applies to the Salt River Landfill, a municipal solid waste landfill owned and operated by the SPRMIC on the SRPMIC's reservation in Arizona, which includes waste disposal areas identified as ''Phases I–VI.'' The Research, Development, and Demonstration Permit Application Salt River Landfill, submitted by SRPMIC and dated September 24, 2007 and amended in April 2008 is hereby incorporated into this provision by this reference. The facility owner and/or operator may operate the facility in accordance with this application, including the following activities more generally described as follows:

(1) The owner and/or operator may install a geosynthetic clay liner as an alternative bottom liner system in Phase VI.

(2) The owner and/or operator may operate Phase VI as a bioreactor by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater, to the below grade portions of Phase VI.

(3) The owner and/or operator may increase the moisture content of the waste mass in Phases IIIB and IVA by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater, to the below grade portions of Phases IIIB and IVA.

(4) The owner and/or operator shall maintain less than a 30-cm depth of leachate on the liner.

(5) The owner and/or operator shall submit reports to the Director of the

Waste Management Division at EPA Region 9 as specified in the September 24, 2007 application, as amended in April of 2008, including an annual report showing whether and to what extent the site is progressing in attaining project goals. The annual report will also include a summary of all monitoring and testing results, as specified in the application.

(6) The owner and/or operator may not operate the facility pursuant to the authority granted by this section if there is any deviation from the terms, conditions, and requirements of this section unless the operation of the facility will continue to conform to the standards set forth in § 258.4 of this chapter and the owner and/or operator has obtained the prior written approval of the Director of the Waste Management Division at EPA Region 9 or his or her designee to implement corrective measures or otherwise operate the facility subject to such deviation. The Director of the Waste Management Division or designee shall provide an opportunity for the public to comment on any significant deviation prior to providing his or her written approval of the deviation.

(7) Paragraphs (a)(2), (3), (5), (6) and (9) of this section will terminate August 4, 2011 unless the Director of the Waste Management Division at EPA Region 9 or his or her designee renews this authority in writing. Any such renewal may extend the authority granted under paragraphs (a)(2), (3), (5), (6) and (9) of this section for up to an additional three years, and multiple renewals (up to a total of 12 years) may be provided. The Director of the Waste Management Division or designee shall provide an opportunity for the public to comment on any renewal request prior to providing his or her written approval or disapproval of such request.

(8) In no event will the provisions of paragraphs (a)(2), (3), (5), (6) or (9) of this section remain in effect after August 4, 2020. Upon termination of paragraphs (a)(2), (3), (5), (6) and (9) of this section, and except with respect to paragraphs (a)(1) and (4) of this section, the owner and/or operator shall return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through this site-specific rule.

(9) In seeking any renewal of the authority granted under or other requirements of paragraphs (a)(2), (3), (5) and (6) of this section, the owner and/or operator shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the Director of the Waste Management Division at EPA Region 9 or his or her designee has determined are necessary for the approval of any renewal and has communicated in writing to the owner and operator.

(10) The owner and/or operator's authority to operate the landfill in accordance with paragraphs (a)(2), (3), (5), (6) and (9) of this section shall terminate if the Director of the Waste Management Division at EPA Region 9 or his or her designee determines that the overall goals of the project are not being attained, including protection of human health or the environment. Any such determination shall be communicated in writing to the owner and operator.

(b) [Reserved]

[FR Doc. E8–17828 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2007–1185; FRL–8699–8]

Mississippi: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Mississippi has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Mississippi. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment.

DATES: Comments must be received on or before September 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2007–1185 by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: johnson.otis@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery:* Otis Johnson, Permits and State Programs, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R04–RCRA–2007–1185. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. 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. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*).

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy. You may view and copy Mississippi's application at the EPA, Region 4, RCRA Division, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

You may also view and copy Mississippi's application from 8 a.m. to 4:30 p.m. at The Mississippi Department of Environmental Quality, Hazardous Waste Division, 101 W. Capital, Suite 100, Jackson, Mississippi 39201.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8481 fax number: (404) 562–9964; e-mail address: *johnson.otis @epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 16, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E8–17712 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 503 and 552

[GSAR Case 2008–G502; Docket 2008–0007; Sequence 12]

RIN 3090–AI63

General Services Acquisition Regulation; GSAR Case 2008–G502;Improper Personal Conflicts of Interest

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to revise language regarding requirements for improper business practices and personal conflicts of interest.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before October 3, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by GSAR Case 2008–G502 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov*.Submit comments via the Federal eRulemaking portal by inputting ''GSAR Case 2008–G502'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with GSAR Case 2008–G502. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''GSAR Case 2008–G502'' on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite GSAR Case 2008–G502 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Ernest Woodson at (202) 501–3775, or by e-mail at *ernest.woodson@gsa.gov*. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2008–G502.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to update the text addressing GSAR Part 503, Improper Business Practices and Personal Conflicts of Interest; Subpart 503.1, Safeguards; Subpart 503.2, Contractor Gratuities to Government Personnel; Subpart 503.4, Contingent Fees; Subpart 503.5, Other Improper Business Practices; Subpart 503.7, Voiding and Rescinding Contracts; and Subpart 503.10, Contractor Code of Business Ethnics and Conduct.

This rule is a result of the General Services Administration Acquisition Manual (GSAM) Rewrite initiative. The initiative was undertaken by GSA to revise the GSAM to maintain consistency with the FAR and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA acquisition personnel can use when entering into and administering contractual relationships. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This rule covers the rewrite of the regulatory portion of Part 503. The rule revises GSAR Subpart 503.1, Safeguards, to delete 503.104–1, Definitions, and 503.104–9, Contracts clauses, to ensure consistency with the GSAM that provides that the acquisition of leasehold interests in real property is established by GSAM Part 570; Subpart 503.2, Contractor Gratuities to Government Personnel, to revise 503.204(a)(2) to delete the term ''joint venture'' to ensure grammatical and structural clarity; to delete from 503.204(c) the reference to the Chairman of the GSA Board of Contract Appeals which no longer exists, and revise 503.204(f); to ensure consistency with FAR 3.204(f), Subpart 503.4, Contingents Fees, to delete 503.404, Contract clause, to ensure consistency with the GSAM that provides that the acquisition of leasehold interests in real property is established by GSAM Part 570; Subpart 503.5, Other Improper Business Practices, to revise 503.570–1, Policy, to delete the term ''referring'' and add ''making references'' for clarity; Subpart 503.7, Voiding and Rescinding

Contracts, to revise 503.702 to delete the definition for ''Notice'' and ''Voiding and rescinding official'' as the terms do not require definition; to add a new section 503.703, Authority, to identify the Senior Procurement Executive as having the authority to void and rescind contracts pursuant to FAR 3.703 and 3.705(b); to relocate 503.705 from the GSAR to the manual part of the GSAM because it relates to internal administrative procedures; to add a new Subpart 503.10, Contractor Code of Business Ethics and Conduct, to establish a lower threshold for the inclusion of FAR 52.203–14, Display of Hotline Poster(s), at 503.1004(a) and include the name of the poster and where the poster may be obtained at 503.1004(b)(i) and (ii) pursuant to FAR 52.203.14(b)(3); to delete GSAR 552.203–5, Covenant Against Contingent Fees, to ensure consistency with the GSAM that provides that the acquisition of leasehold interests in real property is established by GSAM Part 570; and to delete GSAR 552.203, Price Adjustment for Illegal or Improper Activity, to ensure consistency with the GSAM requirements that leasehold interests in real property is established by GSAM Part 570.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions are not considered substantive. The revisions only update the GSAR and reorganize existing coverage. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Parts 503 and 552 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (GSAR case 2008–G502), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the GSAM do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 503 and 552

Government procurement.

Dated: July 28, 2008

Al Matera,

Director, Office of Acquisition Policy.

Therefore, GSA proposes to amend 48 CFR parts 503 and 552 as set forth below:

PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1. The authority citation for 48 CFR part 503 is revised to read as follows:

Authority: 40 U.S.C. 121(c).

503.104–3 and 503–104–9 [Removed]

2. Remove sections 503.104–3 and 503.104–9.

3. Amend section 503.204 by—

a. Removing from paragraph (a)(2) ''or joint venture'';

b. Removing from paragraph (c) ''designated by the Chairman of the GSA Board of Contract Appeals.'' and adding a period, in its place; and

c. Revising paragraph (f).

The revised text reads as follows:

503.204 Treatment of violations.

* * * * *

(f) If the Gratuities clause was violated, the contractor may present evidence of mitigating factors to the Senior Procurement Executive, or designee, in accordance with FAR 3.204(b), either orally or in writing, consistent with a schedule the Senior Procurement Executive, or designee, establishes. The Senior Procurement Executive, or designee, exercises the Government's rights under FAR 3.204(c) only after considering mitigating factors.

503.404 [Removed]

4. Remove section 503.404.

503.570–1 [Amended]

5. Amend section 503.570–1 by removing ''referring'' and adding ''making references'' in its place.

503.702 [Removed]

6. Remove section 503.702.

503.703 [Added]

7. Add section 503.703 to read as follows:

503.703 Authority.

Pursuant to FAR 3.703 and 3.705(b), the authority to void or rescind contracts resides with the Senior Procurement Executive.

8. Add Subpart 503.10 to read as follows:

Subpart 503.10—Contractor Code of Business Ethics and Conduct

503.1004 Contract clauses.

(a) The FAR threshold for the clause at 52.203–14, Display of Hotline Poster(s), is $5,000,000. However, GSA has exercised the authority provided at FAR 3.1004(b)(1)(i) to establish a lower threshold, $1,000,000, for inclusion of the clause when the contract or order is funded with disaster assistance funds.

(b) The information required to be inserted in the clause at FAR 52.203–14, Display of Hotline Poster(s), is as follows:

(i) Poster: GSA OIG ''FRAUDNET HOTLINE''; and

(ii) Obtain from: Contracting Officer.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

552.203–5 and 552.203–70 [Removed]

10. Remove sections 552.203–5 and 552.203–70.

[FR Doc. E8–17790 Filed 8–1–08; 8:45 am]

BILLING CODE 6820–61–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2008–0114; Notice 1]

RIN 2127–AK33

Schedule of Fees Authorized by 49 U.S.C. 30141

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes fees for Fiscal Year 2009 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS). These fees are needed to maintain the registered importer (RI) program.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than September 3, 2008.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

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

• *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Clint Lindsay, Office of Vehicle Safety Compliance, NHTSA (202–366–5291). For legal issues, you may call Michael Goode, Office of Chief Counsel, NHTSA (202–366–5263). You may call Docket Management at 202–366–9324. You may visit the Docket in person from 9 a.m. to 5 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Introduction

On June 24, 1996, at 61 FR 32411, we published a notice that discussed in full the rulemaking history of 49 CFR part 594 and the fees authorized by the Imported Vehicle Safety Compliance Act of 1988, Public Law 100–562, since recodified at 49 U.S.C. 30141–47. The reader is referred to that notice for background information relating to this rulemaking action. Certain fees were initially established to become effective January 31, 1990, and have been periodically adjusted since then.

We are required to review and make appropriate adjustments at least every two years in the fees established for the administration of the RI program. See 49 U.S.C. 30141(e). The fees applicable in any fiscal year (FY) are to be established before the beginning of such year. *Ibid*. We are proposing fees that would become effective on October 1, 2008, the beginning of FY 2009. The statute authorizes fees to cover the costs of the importer registration program, to cover the cost of making import eligibility decisions, and to cover the cost of processing the bonds furnished to the Department of Homeland Security (Customs). We last amended the fee schedule in 2006. See final rule published on August 3, 2006 at 71 FR 43985. Those fees apply to Fiscal Years 2007 and 2008.

The proposed fees are based on time and costs associated with the tasks for which the fees are assessed and reflect the slight increase in hourly costs in the past two fiscal years attributable to the approximately 2.64 and 4.49 percent raises (including the locality adjustment for Washington, DC) in salaries of employees on the General Schedule that became effective on January 1, 2007, and on January 1, 2008, respectively.

Requirements of the Fee Regulation

Section 594.6—Annual Fee for Administration of the Importer Registration Program

Section 30141(a)(3) of Title 49, U.S. Code provides that RIs must pay the annual fees established ''* * * to pay for the costs of carrying out the registration program for importers * * *'' This fee is payable both by new applicants and by existing RIs. To maintain its registration, each RI, at the time it submits its annual fee, must also file a statement affirming that the information it furnished in its registration application (or in later submissions amending that information) remains correct (49 CFR 592.5(f)).

In compliance with the statutory directive, we reviewed the existing fees and their bases in an attempt to establish fees that would be sufficient to recover the costs of carrying out the registration program for importers for at least the next two fiscal years. The initial component of the Registration Program Fee is the fee attributable to processing and acting upon registration applications. We have tentatively determined that this fee should be increased from $266 to $295 for new applications. We have also tentatively determined that the fee for the review of the annual statement should be increased from $159 to $186. The proposed adjustments reflect our time expenditures in reviewing both new applications and annual statements with accompanying documentation, as well as the inflation factor attributable to Federal salary increases and locality adjustments in the two years since the fees were last adjusted.

We must also recover costs attributable to maintenance of the registration program that arise from the need for us to review a registrant's annual statement and to verify the continuing validity of information already submitted. These costs also include anticipated costs attributable to the possible revocation or suspension of registrations and reflect the amount of time that we have devoted to those matters in the past two years.

Based upon our review of these costs, the portion of the fee attributable to the maintenance of the registration program is approximately $465 for each RI, an increase of $54. When this $465 is added to the $295 representing the registration application component, the cost to an applicant for RI status comes to $760, which is the fee we propose. This represents an increase of $83 over the existing fee. When the $465 is added to the $186 representing the annual statement component, the total cost to an RI for renewing its registration comes to $651, which represents an increase of $81.

Sec. 594.6(h) enumerates indirect costs associated with processing the annual renewal of RI registrations. The provision states that these costs represent a pro-rata allocation of the average salary and benefits of employees who process the annual statements and perform related functions, and ''a pro-rata allocation of the costs attributable to maintaining the office space, and the computer or word processor.'' For the purpose of establishing the fees that are currently in existence, indirect costs are $17.07 per man-hour. We are proposing to increase this figure by $3.24, to $20.31. This proposed increase is based on the difference between enacted budgetary costs within the Department of Transportation for the last two fiscal years, which were higher than the estimates used when the fee schedule was last amended, and takes account of further projected increases over the next two fiscal years.

Sections 594.7, 594.8—Fees To Cover Agency Costs in Making Importation Eligibility Decisions

Section 30141(a)(3) also requires registered importers to pay other fees the Secretary of Transportation establishes to cover the costs of ''* * * (B) making the decisions under this

subchapter.'' This includes decisions on whether the vehicle sought to be imported is substantially similar to a motor vehicle that was originally manufactured for importation into and sale in the United States and certified by its original manufacturer as complying with all applicable FMVSS, and whether the vehicle is capable of being readily altered to meet those standards. Alternatively, where there is no substantially similar U.S. certified motor vehicle, the decision is whether the safety features of the vehicle comply with, or are capable of being altered to comply with, the FMVSS based on destructive test information or such other evidence that NHTSA deems to be adequate. These decisions are made in response to petitions submitted by RIs or manufacturers, or on the Administrator's own initiative.

The fee for a vehicle imported under an eligibility decision made in response to a petition is payable in part by the petitioner and in part by other importers. The fee to be charged for each vehicle is the estimated pro-rata share of the costs in making all the eligibility decisions in a fiscal year.

Inflation and General Schedule raises must also be taken into account in the computation of costs. We have reduced costs by issuing a single **Federal Register** notice to announce import eligibility decisions made on multiple vehicles. Despite the cost savings that have accrued from this effort, RIs have imported fewer vehicles each year since we last amended the fee schedule. This has increased the pro-rata share of petition costs that are to be assessed against the importer of each vehicle covered by the decision to grant import eligibility. Although the number of petitions submitted in the past two years has decreased, the agency has devoted an increasing share of staff time to the review and processing of import eligibility petitions owing to complications that result when the petitioner or one or more commenters request confidentiality for information they submit to the agency. Additional staff time is also needed to analyze the petitions and any comments received owing to new requirements being adopted in the FMVSS, such as the advanced air bag rule that became effective September 1, 2006. Despite these factors, we are proposing no increase in the current fee of $175 that covers the initial processing of a ''substantially similar'' petition. Instead, as discussed below, we are proposing to address these additional costs by increasing the pro-rata share of petition costs that are assessed against the importer of each vehicle covered by the decision to grant import eligibility. Likewise, we are also proposing to maintain the existing fee of $800 to cover the initial costs for processing petitions for vehicles that have no substantially similar U.S.-certified counterpart.

In the event that a petitioner requests an inspection of a vehicle, the fee for such an inspection would remain $827 for vehicles that are the subject of either type of petition.

Importers of vehicles determined to be eligible for importation pay, upon the importation of those vehicles, a pro-rata share of the total cost for making the eligibility decision. The importation fee varies depending upon the basis on which the vehicle is determined to be eligible. For vehicles covered by an eligibility decision on the agency's own initiative (other than vehicles imported from Canada that are covered by import eligibility numbers VSA–80 through 83, for which no eligibility decision fee is assessed), the fee would remain $125. NHTSA determined that the costs associated with previous eligibility determinations on the agency's own initiative would be fully recovered by October 1, 2008. We apply the fee of $125 per vehicle only to vehicles covered by determinations made by the agency on its own initiative on or after October 1, 2008.

The agency's costs for making an import eligibility decision pursuant to a petition are borne in part by the petitioner and in part by the importers of vehicles imported under the petition. In 2007, the most recent year for which complete data exists, the agency expended $76,031 in making import eligibility decisions based on petitions. The petitioners paid $6,975 of that amount in the processing fees that accompanied the filing of their petitions, leaving the remaining $69,056 to be recovered from the importers of the 236 vehicles imported that year under petition-based import eligibility decisions. Dividing $69,056 by 236 yields a pro-rata fee of $293 for each vehicle imported under an eligibility decision that resulted from the granting of a petition.

However, the agency believes that the volume of petition-based imports for the next two fiscal years should not be projected on the basis of a single year, particularly one in which the volume of petition-based imports was atypically low. The agency therefore took the average number of petition-based imports over the past 15 years to project the number of such vehicles that would be imported in Fiscal Years 2009 and 2010. Further, we assume that petitions filed during Fiscal Years 2009 and 2010 would also more closely reflect the average number of petitions received each year since 1991, the first year that the agency received RI petitions. Based on these estimates, we project that 621 vehicles would be imported under petition-based eligibility decisions and that 39 petition-based import eligibility decisions would be made.

Based on these estimates, the agency's costs for processing these petitions would increase to no more than $136,000. Petitioners would pay slightly more than $13,000 of that amount in the processing fees that accompany the filing of their petitions, leaving the remaining $123,000 to be recovered from the importers of the 621 vehicles to be imported each year under petition-based import eligibility decisions. Dividing $123,000 by 621 yields a pro-rata fee of $198 for each vehicle imported under an eligibility decision that results from the granting of a petition.

Based on our estimates for Fiscal Years 2009 and 2010, the pro-rata fee to be paid by the importer of each such vehicle would decrease from $208 to $198, representing a decrease of $10 from the existing fee for each vehicle imported. The same $198 fee would be paid regardless of whether the vehicle was petitioned under 49 CFR 593.6(a), based on the substantial similarity of the vehicle to a U.S.-certified model, or was petitioned under 49 CFR 593.6(b), based on the safety features of the vehicle complying with, or being capable of being modified to comply with, all applicable FMVSS.

Section 594.9—Fee To Recover the Costs of Processing the Bond

Section 30141(a)(3) also requires a registered importer to pay any other fees the Secretary of Transportation establishes ''* * * to pay for the costs of—(A) processing bonds provided to the Secretary of the Treasury * * *'' upon the importation of a nonconforming vehicle to ensure that the vehicle would be brought into compliance within a reasonable time, or if it is not brought into compliance within such time, that it be exported, without cost to the United States, or abandoned to the United States.

The Department of Homeland Security (Customs) now exercises the functions associated with the processing of these bonds. To carry out the statute, we make a reasonable determination of the costs that Department incurs in processing the bonds. In essence, the cost to Customs is based upon an estimate of the time that a GS–9, Step 5 employee spends on each entry,

which Customs has judged to be 20 minutes.

Based on General Schedule salary and locality raises that were effective in January 2007 and 2008 and the inclusion of costs for benefits, we are proposing that the processing fee be increased by $.46, from $9.77 per bond to $10.23. This fee would reflect the direct and indirect costs that are actually associated with processing the bonds.

Section 594.10—Fee for Review and Processing of Conformity Certificate

Each RI is currently required to pay $13 per vehicle to cover the costs the agency incurs in reviewing a certificate of conformity. We estimate that these costs would increase to an average of $14.00 per vehicle because of increased contractor and overhead costs. Based on these estimates, we are proposing to increase the fee charged for vehicles for which a paper entry and fee payment is made, from $13 to $14, a difference of $1 per vehicle. However, if an RI enters a vehicle through the Automated Broker Interface (ABI) system, has an e-mail address to receive communications from NHTSA, and pays the fee by credit card, the cost savings that we realize allow us to significantly reduce the fee to $6.00. We propose to maintain the fee of $6.00 per vehicle if all the information in the ABI entry is correct.

Errors in ABI entries not only eliminate any time savings, but also require additional staff time to be expended in reconciling the erroneous ABI entry information to the conformity data that is ultimately submitted. Our experience with these errors has shown that staff members must examine records, make time-consuming long distance telephone calls, and often consult supervisory personnel to resolve the conflicts in the data. We have calculated this staff and supervisory time, as well the telephone charges, to amount to approximately $42 for each erroneous ABI entry. Adding this to the $6 fee for the review of conformity packages on automated entries yields a total of $48, representing no change in the fee that is currently charged when there are one or more errors in the ABI entry or in the statement of conformity.

Effective Date

The proposed effective date of the final rule is October 1, 2008.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''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.

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is not significant. Accordingly, the Office of Management and Budget has not reviewed this rulemaking document under Executive Order 12886. Further, NHTSA has determined that the rulemaking is not significant under Department of Transportation's regulatory policies and procedures. Based on the level of the fees and the volume of affected vehicles, NHTSA currently anticipates that the costs of the final rule would be so minimal as not to warrant preparation of a full regulatory evaluation. The action does not involve any substantial public interest or controversy. There would be no substantial effect upon State and local governments. There would be no substantial impact upon a major transportation safety program. A regulatory evaluation analyzing the economic impact of the final rule establishing the registered importer program, adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBFEFA) of 1996), whenever an agency is required to publish a notice of proposed 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 (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The agency has considered the effects of this proposed rulemaking under the Regulatory Flexibility Act, and certifies that if the proposed amendments are adopted they would not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The proposed amendments would primarily affect entities that currently modify nonconforming vehicles and which are small businesses within the meaning of the Regulatory Flexibility Act; however, the agency has no reason to believe that these companies would be unable to pay the fees proposed by this action. In most instances, these fees would not be changed or be only modestly increased (and in some instances decreased) from the fees now being paid by these entities. Moreover, consistent with prevailing industry practices, these fees should be passed through to the ultimate purchasers of the vehicles that are altered and, in most instances, sold by the affected registered importers. The cost to owners or purchasers of nonconforming vehicles that are altered to conform to the FMVSS may be expected to increase (or decrease) to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of carrying out the registration program and making eligibility decisions, and to compensate Customs for its bond processing costs.

Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires NHTSA 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.'' Executive Order 13132 defines the term ''policies that have federalism implications'' 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.'' Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule would 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. Moreover, NHTSA is required by statute to impose fees for the administration of the RI program and to review and make necessary adjustments in those fees at least every two years. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action would not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the rule.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 ''Civil Justice Reform,'' this agency has considered whether this proposed rule would have any retroactive effect. NHTSA concludes that this proposed rule would not have any retroactive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

F. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with the base year of 1995). Before promulgating a rule for which a written assessment is needed, Section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and to 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 NHTSA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Because a final rule based on this proposal would not require the expenditure of resources beyond $100 million annually, this action is not subject to the requirements of Sections 202 and 205 of the UMRA.

G. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the proposed rule clearly stated?
—Does the proposed rule contain technical language or jargon that is unclear?
—Would a different format (grouping and order of sections, use of heading, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposal would require no information collections.

I. Executive Order 13045

Executive Order 13045 applies to any rule that (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rulemaking is not economically significant and does not concern an environmental, health, or safety risk.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law 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, such as the Society of Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have concluded that there are no voluntary consensus standards applicable to this proposed rule.

K. Comments

How Do I Prepare and Submit Comments?

Your comments must be written in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR, Part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System (FDMS) Web page *http://www.regulations.gov.*

(2) On that page, click on ''search for dockets.''

(3) On the next page (*http://www.regulations.gov/fdmspublic/component/main*), select NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION from the drop-down menu in the Agency field, enter the Docket ID number and title shown at the heading of this document, and select ''RULEMAKING'' from the drop-down menu in the Type field.

(4) After entering that information, click on ''submit.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see. You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the ''pdf'' versions of the documents are word searchable. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

L. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN that appears in the heading on the first page of this document to find this action in the Unified Agenda.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 594 as follows:

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

PART 594—SCHEDULE OF FEES AUTHORIZED BY 49 U.S.C. 30141

1. The authority citation for part 594 continues to read as follows:

Authority: 49 U.S.C. 30141, 31 U.S.C. 9701; delegation of authority at 49 CFR 1.50.

2. Section 594.6 is amended by;

A. Revising the introductory text of paragraph (a);

B. Revising paragraph (b);

C. Revising paragraph (d);

D. Revising the final sentence of paragraph (h); and

E. Revising paragraph (i) to read as follows:

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered Importer pursuant to part 592 of this chapter on or after October 1, 2008, must pay an annual fee of $760, as calculated below, based upon the direct and indirect costs attributable to:

* * * * *

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed on and after October 1, 2008, is $295. The sum of $295, representing this portion, shall not be refundable if the application is denied or withdrawn.

* * * * *

(d) That portion of the initial annual fee attributable to the remaining activities of administering the registration program on and after October 1, 2008, is set forth in paragraph (i) of this section. This portion shall be refundable if the application is denied, or withdrawn before final action upon it.

* * * * *

(h) * * * This cost is $23.31 per man-hour for the period beginning October 1, 2008.

(i) Based upon the elements and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration program, covering the period beginning October 1, 2008, is $465. When added to the costs of registration of $295, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are $760. The annual renewal registration fee for the period beginning October 1, 2008, is $651.

3. Section 594.7 is amended by revising paragraph (e) to read as follows:

§ 594.7 Fee for filing petitions for a determination whether a vehicle is eligible for importation.

* * * * *

(e) For petitions filed on and after October 1, 2008, the fee payable for seeking a determination under paragraph (a)(1) of this section is $175. The fee payable for a petition seeking a determination under paragraph (a)(2) of this section is $800. If the petitioner requests an inspection of a vehicle, the sum of $827 shall be added to such fee. No portion of this fee is refundable if the petition is withdrawn or denied.

* * * * *

4. Section 594.8 is amended by revising paragraph (b) and the first sentence of paragraph (c) to read as follows:

§ 594.8 Fee for importing a vehicle pursuant to a determination by the Administrator.

* * * * *

(b) If a determination has been made pursuant to a petition, the fee for each vehicle is $198. The direct and indirect costs that determine the fee are those set forth in §§ 594.7(b), (c), and (d).

(c) If a determination has been made on or after October 1, 2008, pursuant to the Administrator's initiative, the fee for each vehicle is $125. * * *

5. Section 594.9 is amended by revising paragraph (c) to read as follows:

§ 594.9 Fee for reimbursement of bond processing costs.

* * * * *

(c) The bond processing fee for each vehicle imported on and after October 1, 2008, for which a certificate of conformity is furnished, is $10.23.

5. Section 594.10 is amended by revising paragraph (d) to read as follows:

§ 594.10 Fee for review and processing of conformity certificate.

* * * * *

(d) The review and processing fee for each certificate of conformity submitted on and after October 1, 2008 is $14. However, if the vehicle covered by the certificate has been entered electronically with the U.S. Department of Homeland Security through the Automated Broker Interface and the registered importer submitting the certificate has an e-mail address, the fee for the certificate is $6, provided that the fee is paid by a credit card issued to the registered importer. If NHTSA finds that the information in the entry or the certificate is incorrect, requiring further processing, the processing fee shall be $48.

Issued on: July 25, 2008.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. E8–17516 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 071203794–8828–01]

RIN 0648–AW36

Pacific Halibut Fisheries; Subsistence Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that amend the subsistence fishery rules for members of an Alaska Native tribe eligible to harvest Pacific halibut in waters in and off Alaska for customary and traditional use. The proposed change would correct the location listed in the regulations for the Village of Kanatak tribe and the International Pacific Halibut Commission (IPHC) halibut regulatory area (Area) in which members may subsistence fish. These regulations correctly define the headquarters and Area for the Village of Kanatak tribe. The action would change the tribe's headquarters from Egegik to Wasilla and the corresponding Area from 4E to Area 3A. The intent of the correction is to remove restrictions on participation of tribal members in traditional subsistence fisheries for Pacific halibut by aligning the tribe's headquarters with its actual location in Wasilla.

DATES: Comments must be received no later than September 3, 2008.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by ''RIN 0648–AW36'' by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats to be accepted.

Copies of the Categorical Exclusion (CE) and Regulatory Impact Review (RIR) prepared for this action may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, Alaska 99802, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and via the Internet at the NMFS Alaska Region website at *http://www.noaa.fakr.gov*.

FOR FURTHER INFORMATION CONTACT: Peggy Murphy, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

The United States and Canada participate in the International Pacific Halibut Commission (IPHC) and promulgate regulations governing the Pacific halibut (*Hippoglossus stenolepis*) fishery under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). Regulations governing the allocation and catch of halibut in U.S. convention waters that are in agreement with the Halibut Act may be developed by the North Pacific Fishery Management Council (Council). Regulations recommended by the Council must be approved by the Secretary of Commerce before being implemented through the National Marine Fisheries Service (NMFS). The Council prepared an environmental assessment/regulatory impact review (EA/RIR) for subsistence halibut fisheries, in January 2003, and NMFS published the final rule to implement subsistence halibut regulations in April 2003 (68 FR 18145). The Alaska Native tribe, Village of Kanatak is recognized in the regulations as an organized tribal entity with its tribal headquarters located in Egegik, Alaska within halibut regulatory area 3A. However, the tribe's headquarters are actually located in Wasilla, Alaska in halibut regulatory area 4E. The initial assignment of the tribal headquarters location to Egegik was incorrect.

The lists of rural communities and native tribes recommended by the Council and approved by the Secretary for subsistence fishing eligibility were derived from positive customary and traditional findings for halibut and bottomfish made by the Alaska State Board of Fisheries (BOF) prior to the Alaska Supreme Court decision, *McDowell* v. *State*, 785 P.2d 1 (Alaska 1989). The Council retains exclusive authority to recommend changes to the list of communities § 300.65(g)(1) and Alaska Native tribes § 300.65(g)(2) with customary and traditional uses of Pacific halibut. Residents and tribal members who believe that their rural or tribal place was incorrectly left out of the subsistence eligibility listing for

communities or Alaska Native tribes, or who are seeking eligibility for the first time, are encouraged to seek a customary and traditional finding from the BOF before petitioning the Council.

The Proposed Action

In June 2007, the Council received a request from the Kanatak Tribal Council to have its fishing area corrected from Area 4E to Area 3A, because the current, erroneous, listing has prevented the same tribal members from participating in traditional subsistence fisheries. The Council recognized this difference and responded by recommending an amendment to § 300.65(g)(2) to change the listing for the Village of Kanatak's headquarters from Egegik to Wasilla and update the corresponding halibut regulatory area from Area 4E to Area 3A. The intent of the correction is to remove restrictions on individual participation by aligning the tribe's headquarters with its actual location in Wasilla.

Individual persons are eligible to harvest subsistence halibut if they are rural residents of a community or a member of an Alaska Native tribe with customary and traditional uses of halibut. Communities and tribes are listed in tables by Halibut Regulatory Areas at § 300.65(g)(1) and (2), respectively. A person subsistence fishing for halibut also must hold a valid Subsistence Halibut Area Registration Certificate (SHARC) in that person's name issued by NMFS. An individual holding a SHARC that resides in a rural area may harvest subsistence halibut in all waters in and off Alaska except for areas designated as non-subsistence areas. The four non-subsistence areas specified in regulation at § 300.65(h)(3) are the Ketchikan, Juneau, Anchorage/-Matsu/-Kenai, and Valdez non-subsistence areas (see Figures 2 through 5 to subpart E of part 300). Under this action, there would be no change to rural eligibility criteria to subsistence fish for halibut in any halibut regulatory area in waters in and off the State of Alaska.

A non-rural Alaska resident or a resident of another state who is a member of a tribe that is located in a rural area is limited to subsistence fishing for halibut only in his or her area of tribal membership (§ 300.65(h)(4)(i) and (ii)). The ''area of tribal membership'' is defined at § 300.65(h)(4)(iii) as ''rural areas of the [IPHC] regulatory area or of the Bering Sea closed area in which the Alaska Native tribal headquarters is located.'' The area of tribal membership for the Kanatak tribe is currently Area 4E. The action would align the Village of Kanatak's tribal headquarters with its actual location in Wasilla in Area 3A and effectively changes area restrictions on some members of the tribe to conduct subsistence halibut fishing. The proposed action is expected to redistribute some tribal members' harvesting effort from Area 4E to fishing areas in Area 3A. Waters in Area 3A include two non-subsistence areas that are closed to subsistence fishing: the Anchorage-Matsu-Kenai non-rural area and the Valdez non-rural area.

Moving the place of the Kanatak tribal headquarters to Wasilla is expected to increase customary and traditional uses of halibut by individual members of the tribe in Area 3A. Wasilla is a community in the Anchorage-Matsu-Kenai non-rural area within Area 3A where a majority of Kanatak tribal members reside. Non-rural and non-resident members of the Kanatak tribe may increase subsistence halibut use in Area 3A because they would have greater access to subsistence fishing areas through Anchorage, central Alaska's main transportation hub that is connected to road systems throughout much of Area 3A.

The action would improve accuracy of current regulations, and the quality of subsistence halibut information for non-rural tribal members, by correctly recognizing the location of the tribe's headquarters in Wasilla. This correction improves area specific data collected by the State of Alaska subsistence halibut survey and analyzed for reporting subsistence harvest and effort in Alaska.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The proposed action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of NMFS in matters affecting tribal interests. Section 161 of Public Law (P.L.) 108–199 (188 Stat. 452), as amended by section 518 of P.L. 109–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS has special obligations to consult and coordinate with tribal governments and Alaska Native Claims Settlement Act (ANCSA) corporations on a government-to-government basis. This rule affects individual members of the Village of Kanatak tribe, but not the tribe itself, and the village of Kanatak is not recognized as an ANCSA corporation. NMFS recognizes the importance of communication and during the process of developing the proposed action, NMFS consulted with the Alaska Native Subsistence Halibut Working Group in December 2007 and the Kanatak Tribal Administrator in January 2008.

The proposed rule was determined to be not significant for the purposes of Executive Order (E.O.) 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this action, if adopted, would not have a significant economic impact on a substantial number of small entities.

Basis and purpose of rule

The United States and Canada participate in the International Pacific Halibut Commission (IPHC) and promulgate regulations governing the Pacific halibut (*Hippoglossus stenolepis*) fishery under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). Regulations governing the allocation and catch of halibut in U.S. convention waters that are in agreement with the Halibut Act may be developed by the North Pacific Fishery Management Council (Council). The Secretary of Commerce must approve regulations recommended by the Council before implementation by the National Marine Fisheries Service (NMFS). The Council prepared an environmental assessment/regulatory impact review (EA/RIR) for subsistence halibut fisheries, in January 2003, and NMFS published the final rule to implement subsistence halibut regulations in April 2003 (68 FR 18145). The Alaska Native tribe, Village of Kanatak is recognized in the regulations as an organized tribal entity with its tribal headquarters located in Egegik, Alaska within halibut regulatory area 3A. However, the tribe's headquarters are actually located in Wasilla, Alaska in halibut regulatory area 4E. The initial assignment of the tribal headquarters location to Egegik was incorrect.

In June 2007, the Council received a request from the Kanatak Tribal Council to have its fishing area corrected from Area 4E to Area 3A, because the current, erroneous, listing has prevented the same tribal members from participating in traditional subsistence fisheries. The Council recognized this difference and responded by

recommending an amendment to § 300.65(g)(2) to change the listing for the Village of Kanatak's headquarters from Egegik to Wasilla and update the corresponding halibut regulatory area from Area 4E to Area 3A. The intent of the correction is to remove restrictions on individual participation by aligning the tribe's headquarters with its actual location in Wasilla.

Individual persons are eligible to harvest subsistence halibut if they are rural residents of a community or a member of an Alaska Native tribe with customary and traditional uses of halibut. Communities and tribes are listed in tables by Halibut Regulatory Areas at § 300.65(g)(1) and (2), respectively. A person subsistence fishing for halibut also must hold a valid Subsistence Halibut Area Registration Certificate (SHARC) in that person's name issued by NMFS. An individual holding a SHARC that resides in a rural area may harvest subsistence halibut in all waters in and off Alaska except for areas designated as non-subsistence areas. The four non-subsistence areas specified in regulation at § 300.65(h)(3) are the Ketchikan, Juneau, Anchorage/-Matsu/-Kenai, and Valdez non-subsistence areas (see Figures 2 through 5 to subpart E of part 300). Under this action, there would be no change to rural eligibility criteria to subsistence fish for halibut in any halibut regulatory area in waters in and off the State of Alaska.

A non-rural Alaska resident or a resident of another state who is a member of a tribe that is located in a rural area is limited to subsistence fishing for halibut only in his or her area of tribal membership (§ 300.65(h)(4)(i) and (ii)). The ''area of tribal membership'' is defined at § 300.65(h)(4)(iii) as ''rural areas of the [IPHC] regulatory area or of the Bering Sea closed area in which the Alaska Native tribal headquarters is located.'' The area of tribal membership for the Kanatak tribe is currently Area 4E. The action would align the Village of Kanatak's tribal headquarters with its actual location in Wasilla in Area 3A and effectively changes area restrictions on some members of the tribe to conduct subsistence halibut fishing. The proposed action is expected to redistribute some tribal members' harvesting effort from Area 4E to fishing areas in Area 3A. Waters in Area 3A include two non-subsistence areas that are closed to subsistence fishing: the Anchorage-Matsu-Kenai non-rural area and the Valdez non-rural area.

Moving the place of the Kanatak tribal headquarters to Wasilla is expected to increase customary and traditional uses of halibut by individual members of the tribe in Area 3A. Wasilla is a community in the Anchorage-Matsu-Kenai non-rural area within Area 3A where a majority of Kanatak tribal members reside. Non-rural and non-resident members of the Kanatak tribe may increase subsistence halibut use in Area 3A because they would have greater access to subsistence fishing areas through Anchorage, central Alaska's main transportation hub that is connected to road systems throughout much of Area 3A.

Factual Basis for the Certification

Description and estimate of the number of small entities to which the rule applies

The action would not directly regulate any small entities. Small entities have the same definition as small business, small organizations, and small government jurisdictions in Section 601(3)-(5) of the Regulatory Flexibility Act (RFA) of 1980. Instead, the action would directly regulate individual persons who are not considered small entities within the meaning of the RFA.

An individual member of the Village of Kanatak tribe would be directly regulated by the action if he or she is: (a) a non-rural resident of Alaska or a resident of a state other than Alaska; and (b) subsistence fishing for halibut (§ 300.65(h)(4)(i)-(iii)). Even though there are typically a number of individuals in a tribe they are regulated as individual persons and not collectively as evidenced by the distinction of residency. The Village of Kanatak would be the only Alaska Native tribe whose non-rural and non-resident members would be directly regulated by the proposed rule.

All of the persons that would be directly regulated by the action are natural persons. The subsistence halibut regulation at § 300.65(g)(2) specifies that ''A person is eligible to harvest subsistence halibut if he or she is a member of an Alaska Native tribe with customary and traditional uses of halibut listed [in the table in this paragraph].'' The Village of Kanatak is listed in the table and individual members of the tribe are recognized as natural persons eligible to harvest subsistence halibut. Moreover, all of the members of the Kanatak Tribe are natural persons as direct descendents of individuals counted in a census carried out in Kanatak in 1924 (Olivier, pers. comm.). The regulations further specify at § 300.61 that halibut caught for subsistence purposes are defined as halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or customary trade. While there is no clear requirement in the regulations that a ''rural resident'' or a ''member of an Alaska Native tribe'' be a natural person, the regulations clearly anticipate that they will be.

The definition of small entity, distinction of individual tribal members, and declaration of natural persons combined provide the factual basis for asserting no small entities are directly regulated by the action.

Description and estimate of economic impact on small entities by entity size and industry

No small entities are directly regulated by the proposed rule. Therefore, there are no economic impacts on directly regulated small entities.

Criteria used to evaluate whether the rule would impose impacts on ''a substantial number of small entities''

The criteria used to determine whether or not small entities are directly regulated by this action are the definitions of a small business, small organization, small governmental jurisdiction, and small entity in 601(3), (4), (5), and (6) of the RFA, and the definition of a business concern at 13 CFR 121.105.

Criteria used to evaluate whether the rule would impose ''significant economic impacts''

Because this action will not directly regulate any small entities, no criteria were necessary to make a determination of whether or not the action would have significant economic impacts on directly regulated entities.

Description of and basis for assumptions used

The finding that no small entities would be directly regulated by this action is based on the definition of small entities in the RFA and implementing regulations, a determination that only individual members of the Kanatak Tribe would be directly regulated, and a determination that all individual tribal members are natural persons, and not entities, as contemplated by the statute and regulations. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Because there will not be a substantial impact on a significant number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects for 50 CFR Part 300

Alaska, Alaska Natives, Fisheries, Fishing, Pacific halibut fisheries, Tribes.

Dated: July 29, 2008.

Samuel D. Rauch III

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773–773k.

2. In § 300.65, in paragraph (g)(2):

A. In the table for Halibut Regulatory Area 3A, add in alphabetical order an entry for ''Wasilla''.

B. In the table for Halibut Regulatory Area 4E, revise the entry for ''Egegik''.

The addition and revision read as follows.

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

* * * * *

(g) * * *

(2) * * *

Halibut Regulatory Area 3A

Place with Tribal Headquarters	Organized Tribal Entity
* * * * * * *	
Wasilla	Village of Kanatak
* * * * * * *	

* * * * *

Halibut Regulatory Area 4E

Place with Tribal Headquarters	Organized Tribal Entity
* * * * * * *	
Egegik	Egegik Village
* * * * * * *	

* * * * *

[FR Doc. E8–17814 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 73, No. 150
Monday, August 4, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Intent To Revise a Currently Approved Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations at 5 CFR part 1320, this notice announces the intent of the Cooperative State Research, Education, and Extension Service (CSREES) to request approval for revision of the currently approved information collection for the CSREES application review process.

DATES: Written comments on this notice must be received by October 8, 2008, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: You may submit comments, by any of the following methods:

Mail: Information Collection Officer, CSREES, USDA, STOP 2216, 1400 Independence Avenue, SW., Washington, DC 20250–2216; *Hand Delivery/Courier:* 800 9th Street, SW., Waterfront Centre, Room 4217, Washington, DC 20024; *Fax:* 202–720–0857; or *e-mail:* *jhitchcock@csrees.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Jason Hitchcock, *jhitchcock@csrees.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: CSREES Application Review Process.

OMB Number: 0524–0041.

Expiration Date of Current Approval: 01/31/2009.

Type of Request: Intent to seek approval for the revision of a currently approved information collection for three years.

Abstract: CSREES is responsible for performing a review of applications submitted to CSREES competitive award programs in accordance with section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7613(a). Reviews are undertaken to ensure that projects supported by CSREES are of high quality and are consistent with the goals and requirements of the funding program.

Applications submitted to CSREES undergo a programmatic evaluation to determine worthiness of Federal support. The evaluations consist of a peer panel review and may also entail an assessment by Federal employees and ad hoc reviews.

Need and Use of the Information: The CSREES Application Review Process is accomplished through the use of the CSREES Peer Review System (PRS), a Web-based system which allows reviewers and potential reviewers to update personal information and to complete and submit reviews electronically to CSREES.

Given the highly technical nature of many of these applications, the quality of the peer review greatly depends on the appropriate matching of the subject matter of an application with the technical expertise of a potential reviewer.

Information about potential panel and ad hoc reviewers is collected via an electronic questionnaire. New reviewers are prompted via an e-mail message to complete the questionnaire. The information from the completed questionnaire is loaded into a CSREES database system. The questionnaire collects basic biographical information including address, contact information, and professional expertise. If a reviewer's information is already included in the database, then the questionnaire serves as a request for the potential reviewer to update her/his information. Information in the database system is then used to match applications with the most appropriate (potential) reviewers.

When a reviewer is selected by CSREES and the reviewer agrees to perform a review, the application and associated materials are then made available to her/him. With respect to the application, a reviewer must assure s/he: (1) Will comply with the CSREES Confidentiality Guidelines and (2) does not have a conflict of interest. Upon completion of a review, the reviewer completes various worksheets in PRS evaluating an application against established criterion providing comments as necessary. If appropriate, a peer panel is convened to review and discuss proposals and make funding recommendations.

Information collected from the reviews and/or peer panel is used to determine whether an application is to be recommended for award. When CSREES has rendered a decision, copies of reviews (excluding the names of the reviewers) and summaries of review panel deliberations, if any, are provided to the submitting Project Director.

The CSREES review process is recognized by the grantee and grantor community for its quality.

Estimate of Burden: CSREES estimates that six hours are required to review an application on average. Applications receive an average of four written reviews. CSREES estimates that the potential reviewer questionnaire takes 10 minutes to complete. This estimate was based on feedback from a small sample of reviewers that participated in the completion of the reviewer questionnaire and the completion and submission of application reviews for the CSREES.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Done at Washington, DC, this 17th day of July, 2008.

Gale Buchanan,

Under Secretary, Research, Education, and Economics.

[FR Doc. E8–17648 Filed 8–1–08; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Modification of Hoosier National Forest Boundary

AGENCY: Forest Service, USDA.

ACTION: Notice of Modification of Hoosier National Forest Boundary.

SUMMARY: Pursuant to authority vested in me by section 11 of the Act of March 1, 1911 (36 Stat. 961), as amended, and section 17(a) of the National Forest Management Act of 1976 (90 Stat. 2961), the exterior boundary of the Hoosier National Forest is modified as described below, and all lands within these National Forest boundaries, as adjusted, that have been or hereafter are acquired by the United States for National Forest purposes, are hereby designated for administration as part of the Hoosier National Forest. This change in the exterior boundary of the Hoosier National Forest would allow for the acquisition and management of unique limestone karst features located in the Lost River karst system. The land area to be retracted from the Hoosier National Forest is near French Lick, in an area with no National Forest System lands and where future acquisition is not contemplated.

DATES: This notice is effective August 4, 2008.

FOR FURTHER INFORMATION CONTACT: Louisa Herrera, Lands Staff, 202–205–1255; 1400 Independence Ave., SW., Mailstop 1103, Washington, DC 20250–1124.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The changes to the Hoosier National Forest boundary are:

Boundary Extension

The boundary of the Hoosier National Forest is modified to include the following described lands:

2nd Principal Meridian

Orange County, Indiana

T. 3 N., R. 1 W.,
Sec. 19;
Secs. 27 to 30, inclusive;
Sec. 31, N½, SE¼, S½SW¼;
Secs. 32 to 34, inclusive;
Sec. 35, W½.
T. 2 N., R. 1 W.,
Sec. 2, W½;
Secs. 3 to 10, inclusive;
Sec. 11, W½;
Secs. 14 to 18, inclusive.
T. 2 N., R. 2 W.,
Sec. 1, E½, E½SW¼, E½NW¼;
Sec. 12, E½, E½SW¼, SW¼SW¼ , E½NW¼;
Sec. 13.

The areas encompassed by this boundary modification in Orange County, Indiana, including both public and nonpublic lands, contain 16,723 acres.

Boundary Retraction

The boundary of the Hoosier National Forest is modified to retract the following described lands:

2nd Principal Meridian

Dubois County, Indiana

T. 1 N., R. 3 W.,
Secs. 16 to 26, inclusive, and secs. 35 and 36, inclusive.
T. 1 S., R. 3 W.,
Secs. 1 and 2, inclusive.

The areas encompassed by this boundary modification in Dubois County, Indiana, are nonpublic lands, containing 9,600 acres.

Orange County, Indiana

T. 1 N., R. 2 W.,
Secs. 19 to 21, inclusive;
Sec. 28, N½, N½SE¼, SW¼SE¼ and SW¼;
Secs. 29 to 33, inclusive.
T. 1 S., R. 2 W.,
Secs. 5 and 6, inclusive.

The areas encompassed by this boundary modification in Orange County, Indiana, are nonpublic lands, containing 7,002 acres.

Dated: July 28, 2008.

Mark Rey,

Under Secretary of Agriculture.

[FR Doc. E8–17740 Filed 8–1–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration Mission Statement

AGENCY: Department of Commerce.

ACTION: Notice.

Application Deadline Extended

Secretarial Business Development Mission to Central America and the Dominican Republic

September 28–October 4, 2008.

SUMMARY: Secretary of Commerce Carlos M. Gutierrez will lead a senior-level business development trade mission to the Dominican Republic, Nicaragua and Costa Rica, September 28–October 4, 2008. The overall focus of the trip will be commercial opportunities for U.S. companies, including joint ventures and export opportunities. In each city (Santo Domingo, Dominican Republic, Managua, Nicaragua and San Jose, Costa Rica) the participants will have a market briefing followed by two days of one-on-one appointments with potential buyers/partners and meetings with high-level government officials.

DATES: The application deadline has been extended. Applications should be submitted to the Office of Business Liaison by August 7, 2008. Applications received after that date will be considered only if space and scheduling constraints permit.

Contact: Office of Business Liaison; Room 5062; Department of Commerce; Washington, DC 20230; Tel: (202) 482–1360; Fax: (202) 482–4054.

SUPPLEMENTARY INFORMATION: *Mission Description:* Secretary of Commerce Carlos M. Gutierrez will lead a senior-level U.S. business delegation to Costa Rica, the Dominican Republic, and Nicaragua, during September 28–October 4, 2008, to promote U.S. exports and investment in the leading industry sectors in Central America and the Dominican Republic and highlight regional opportunities for U.S. businesses that have resulted from the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA–DR).

The mission will focus on assisting U.S. companies doing business in Central America and the Dominican Republic to increase their current level of exports and business interests as well as help U.S. companies that are experienced exporters enter the Central American and Dominican Republic markets for the first time. The mission will help participating firms gain market information, make business and government contacts, solidify business strategies, and advance specific projects, towards the goal of helping U.S. firms increase their exports and business interests in Central America and the Dominican Republic. The mission will include business-to-business matchmaking appointments with local companies, as well as meetings with key government officials, industry and trade associations, and American and local chambers of commerce. The mission will additionally provide a platform to address policy and commercial issues—including transparency, rule of law, financial reform and intellectual property rights protection and enforcement—that U.S. companies face

in the Central American and Dominican Republic markets.

The delegation will be comprised of 15–20 U.S. firms representing a cross-section of U.S. industries with commercial interests in Central America and the Dominican Republic. The mission will also be open to participation by representatives of U.S. trade associations in the targeted industry sectors. Targeted industry sectors include, but are not limited to, the following:

- Automotive Hotel & Restaurant Equipment
- Computer Equipment & Peripherals
- Construction Equipment
- Electrical Power Generation & Distribution Equipment
- Food Processing & Packaging Equipment
- Hardware
- General & Household Consumer Goods
- Hotel & Restaurant Equipment
- Medical Equipment
- Optical Equipment
- Plastics
- Printing & Graphic Arts Equipment & Services
- Security & Safety Equipment & Services
- Telecommunications Equipment & Services
- Travel & Tourism

Representatives of the Overseas Private Investment Corporation (OPIC), U.S. Trade and Development Agency (USTDA), the Export-Import Bank of the United States (Ex–Im) and U.S. Agency for International Development (USAID) will be invited to participate (as appropriate) to provide information and counseling on their programs, as they relate to Central American and Dominican markets.

Commercial Setting: CAFTA–DR Region: The region created by the Central America-Dominican Republic-United States Free Trade Agreement, commonly referred to as CAFTA–DR, is the third largest export market in Latin America and the 14th largest market in the world for U.S. exports. The United States exports more to this region than it exports to Russia, Saudi Arabia, and Indonesia combined. Last year, U.S. exports to the region surpassed $22 billion (an increase of 14.4 percent over 2006) and nearly half of the region's imports are from the United States. CAFTA–DR provides substantial new market access for U.S. companies and solidifies the United States as the leading supplier of goods and services to Central America and the Dominican Republic by eliminating the vast majority of tariffs on U.S. goods exported to the region. More than 80 percent of U.S. exports of industrial and consumer products to Central America have become duty free immediately upon entry into force of the Agreement, with remaining tariffs phased out over 10 years. Small and medium-sized enterprises in particular should benefit from significant tariff cuts provided under CAFTA–DR. For more detailed information on CAFTA–DR tariff reductions, please visit: *http://www.export.gov/fta/cafta/cafta_te.asp*.

Costa Rica: In Costa Rica, the only country which has not yet implemented the Agreement, U.S. exports have shown a 10.9 percent increase in 2007, with a total of $4.6 billion. Costa Rica boasts the largest per capita income for any country in the CAFTA–DR region, along with the longest period of political stability. Last year, the country's economic growth rate rose by 6.8 percent. The economy is diversified with tourism/hospitality services, information technology, and medical equipment/instrumentation taking prominent roles. English is the dominant second language, and over one million tourists visit this country annually.

The United States is Costa Rica's leading trading partner, accounting for about 40 percent of Costa Rica's total imports. U.S. companies like Intel, Hewlett-Packard, Procter & Gamble and a number of franchising and service companies have established facilities here, due in many cases to the country's political stability, proximity to the U.S., and number of personnel who can combine technical expertise with the capability to speak English. For more detailed information on trade opportunities with Costa Rica, please visit: *http://www.buyusa.gov/costarica/en/costaricacommercialguide.html*.

Dominican Republic: The U.S. and the Dominican Republic enjoy a very strong commercial relationship. In 2007 the Dominican Republic showed a 13.8 percent increase in total U.S. exports of $6 billion.

The Dominican Republic (DR) is the sixth largest trading partner of the United States in the Western Hemisphere and the 32nd largest commercial partner of the United States in the world. The DR is also the largest market of the CAFTA–DR countries. Best industry prospects in the Dominican Republic include medical equipment, hotel and restaurant equipment, computer and peripherals, telecommunication equipment and tourism.

During the past two administrations, the government has increasingly adopted policies directed toward economic liberalization, including privatizing most state-owned enterprises and improving intellectual property rights protection and enforcement. For more detailed information on trade opportunities with the Dominican Republic please visit: *http://www.buyusa.gov/caribbean/en/dominican_republic.html.*

Nicaragua: U.S. exports to Nicaragua last year totaled $890 million, an 18.5 percent increase over 2006. The United States is Nicaragua's largest trading partner, the source of roughly 22% of Nicaragua's imports in 2007 and the destination for approximately 55% of its exports (including free zone exports). There are more than 100 wholly or partly-owned subsidiaries of U.S. companies currently operating in Nicaragua. The largest of these investments are in energy, financial services, light manufacturing, tourism, fisheries, and shrimp farming. For more detailed information on trade opportunities with Nicaragua, please visit: *http://nicaragua.usembassy.gov/country_comercial_guide.html.*

Mission Goals: This Mission will demonstrate the United States' continued commitment to the markets of Central America and the Dominican Republic since the U.S. passage and implementation of the CAFTA–DR. The Business Development Mission to Central America and the Dominican Republic will assist U.S. businesses to initiate or expand their exports and business interests to Costa Rica, the Dominican Republic, and Nicaragua's leading industry sectors by making business-to-business introductions, providing first-hand market access information, and providing access to government decision makers. The mission specifically aims to:

- Assist U.S. companies already doing business in Costa Rica, the Dominican Republic and Nicaragua to increase their business there;
- Assist U.S. companies that are experienced exporters to enter the Costa Rican, Dominican Republic and Nicaraguan markets for the first time;
- Assist our CAFTA–DR partners in attracting additional U.S. participation in major projects;
- Address obstacles to trade in Central America and the Dominican Republic, including transparency, rule of law, financial reform, and intellectual property rights protection and enforcement; and
- Provide information on U.S. Government trade financing programs, through the participation of representatives from OPIC, USTDA, Ex–Im, and USAID (as appropriate).

Mission Scenario: The mission to Central America and the Dominican

Republic will include three stops: San Jose, Costa Rica; Santo Domingo, the Dominican Republic; and Managua, Nicaragua. In each city, participants will:

- Meet with high-level government officials;
- Meet with potential buyers, agents/distributors and partners;
- Meet with representatives of the chambers of commerce, industry and trade associations; and
- Attend briefings conducted by Embassy officials on the economic and commercial climates.

Receptions and other business events will be organized to provide mission participants with further opportunities to speak with local business and government representatives, as well as U.S. business executives living and working in the region.

Proposed Mission Timetable

Dominican Republic

Sunday, September 28

- Arrive in Santo Domingo
- Economic/Market Briefing by U.S. Government Officials
- Welcome Dinner

Monday, September 29

- Meetings with Dominican Republic Government Officials
- Business Event/Briefing with Local Industry Representatives
- Individual Company Appointments
- Reception Hosted by U.S. Ambassador

Tuesday, September 30

- Business Event/Briefing with Local Industry Representatives
- Individual Company Appointments
- Depart Santo Domingo

Nicaragua

Tuesday, September 30

- Arrive in Managua
- Economic/Market Briefing by U.S. Government Officials

Wednesday, October 1

- Meetings with Nicaraguan Government Officials
- Business Event/Briefing with Local Industry Representatives
- Individual Company Appointments
- Reception Hosted by U.S. Ambassador

Thursday, October 2

- Depart Country Managua

Costa Rica

Thursday, October 2

- Arrive in San Jose
- Economic/Market Briefing by U.S. Government Officials
- Business Event/Briefing with Local Industry Representatives
- Individual Company Appointments
- Reception Hosted by the U.S. Ambassador

Friday, October 3

- Meetings with Costa Rican Government Officials
- Individual Company Appointments
- Business Event/Briefing by Local Industry Representatives

Saturday, October 4

- Mission Ends and Mission Participants Depart San Jose

Participation Requirements: All parties interested in participating in the Central America and the Dominican Republic Business Development Mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Between 15 and 20 companies will be selected to participate in the mission from the applicant pool.

Fees and Expenses: After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $10,000 for large firms and $7,000 for a small or medium-sized enterprise (SME), which includes one principal representative.* The fee for each additional firm representative (large firm or SME) is $2,500. Expenses for travel, lodging, some meals and incidentals will be the responsibility of each mission participant.

Conditions for Participation: An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Office of Business Liaison receives an incomplete application, the Department of Commerce may either: Reject the application, request additional information/clarification, or take the lack of information into account when we evaluate the applications.

Each applicant must also:

- Certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. In cases where the U.S. content does not exceed fifty percent, especially where the applicant intends to pursue investment and major project opportunities, the following factors, often associated with U.S. ownership, may be considered in determining whether the applicant's participation in the trade mission is in the U.S. national interest:
  - U.S. materials and equipment content;
  - U.S. labor content;
  - Repatriation of profits to the U.S. economy; and/or
  - Potential for follow-on business that would benefit the U.S. economy;
- Certify that the export of the products and services that it wishes to export through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified to the Department of Commerce for its evaluation any business pending before the Department of Commerce that may present the appearance of a conflict of interest;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

Selection Criteria for Participation: Selection will be based on the following criteria in decreasing order of importance.

- Suitability of a company's products or services to the Central American and Dominican Republic markets and likelihood of a participating company's increasing exports to or investment in Costa Rica, the Dominican Republic or Nicaragua within a year as a result of this mission;
- Demonstrated export and/or investment experience in Central America and the Dominican Republic and/or globally;
- Current or pending major project participation; and
- Rank/seniority of the designated company representative.

Additional factors, such as diversity of company size, type, location, demographics, and traditional under-representation in business, may also be considered during the review process. Referrals from political organizations and any documents, including the application, containing references to partisan political activities (including political contributions) will be removed

from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications: Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. The Office of Business Liaison and the International Trade Administration will explore and welcome outreach assistance from other interested organizations, including other U.S. Government agencies.

Recruitment for this mission will begin on June 2, 2008. Applications can be completed on-line at the Central American and the Dominican Republic Business Development Mission Web site at *http://www.export.gov/caftadrmission* or can be obtained by contacting the U.S. Department of Commerce Office of Business Liaison (202–482–1360 or *caftadrmission@doc.gov*).

The application deadline is Thursday, July 31, 2008. Completed applications should be submitted to the Office of Business Liaison. Applications received after July 31, 2008 will be considered only if space and scheduling constraints permit.

*An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing schedule reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

General Information and Applications: The Office of Business Liaison, 1401 Constitution Avenue, NW., Room 5062, Washington, DC 20230, Tel: 202–482–1360, Fax: 202–482–4054, E-mail: *CAFTADRMission@doc.gov*.

Country Information: Michael McGee, Regional Senior Commercial Officer, Central America, El Salvador, Phone: (503) 2501–2999 x 3070; Fax: (503) 2501–3067, E-mail: *Michael.Mcgee@mail.doc.gov*;

Michael McGee (Until July 1st), Senior Commercial Officer, Costa Rica, Phone: (506) 2519–2207; Fax: (506) 2231–4783, E-mail: *James.Mccarthy@mail.doc.gov*;

Bryan Smith, Senior Commercial Officer, Costa Rica (effective July 1, 2008), Phone: (506) 2519–2207; Fax: (506) 2231–4783, E-mail: *Bryan.Smith@mail.doc.gov*;

Robert O. Jones, Senior Commercial Officer for the Caribbean Region, the Dominican Republic, Tel: (809) 227–2121; Fax: (809) 920–0267, *robert.jones@mail.doc.gov*;

Marixell García, Commercial Specialist, Econ/Commerce Section, Nicaragua, Tel: (505) 266–6010, Ext. 4371; Fax: (505) 266–9056 o (505) 266–6034, E-mail: *GarciaMA5@state.gov*.

Dated: July 29, 2008.

Jennifer Andberg,

Deputy Director, Office of Business Liaison.

[FR Doc. E8–17752 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce 14th and Constitution Ave., NW, Room 2104 Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 2104, U.S. Department of Commerce.

Docket Number: 08–032. Applicant: University of Maryland, Institute for Research in Electronics and Applied Physics, Energy Research Building ı223, College Park, MD 20742. Instrument: Atomic Layer Deposition System. Manufacturer: Beneq Oy, Finland. Intended Use: The instrument is intended to be used to fabricate ultra thin, nanometer- or atomic–scale films of insulators and metals for unique nanodevices and nanostructures. The films will be evaluated for their purity, optical and electrical properties and their suitability for applications ranging from nanoscale electronics, optics and sensing devices and circuits. This instrument must be able to accommodate a variety of substrates of dissimilar sizes and shapes, including medical implants and flexible integrated circuits. The instrument must also be able to accommodate 3–D samples and must have a minimum of six sources per reactor. Application accepted by Commissioner of Customs: June 25, 2008.

Docket Number: 08–036. Applicant: University of Maryland, 1220 Physics Department, College Park, MD 20742. Instrument: Low Temperature Near Field Confocal Optical Microscope. Manufacturer: Nanonics Imaging Ltd, Israel. Intended Use: The instrument is intended to be used to investigate fundamental physics properties and device applications of a variety of precisely engineered nanoscale structures. The following features are essential in performing the above mentioned research: simultaneous NSOM/AFM/Confocal imaging, normal force sensing open system architecture (transmission, reflection and collection modes), temperature continuously adjustable from 8K to 300K, 5x10-^{8} Torr high vacuum capability, large scanning range (50μ*m in the Z direction), fine NSOM spatial resolution (~50nm), multi–probe capability for independent pump probe measurement control, fast temporal resolution (~300fs). Application accepted by Commissioner of Customs: July 15, 2008.

Docket Number: 08–038. Applicant: Washington State University, 100 Dairy Road, Pullman, Washington 99164–7040. Instrument: Piezoelectric Microarray Spotter. Manufacturer: Scienion AG, Germany. Intended Use: The instrument is intended to be used to construct the microarrays needed to conduct research on the comparative genomics and comparative transcriptomics of bacterial pathogens. A unique feature of this instrument is that it is a non–contact spotter to avoid interference from dust and sensitivity to shifts in relative humidity. The instrument must also be able to be used as a liquid handling robot. Application accepted by Commissioner of Customs: July 16, 2008.

Docket Number: 08–039. Applicant: University of Michigan–Dearborn, 4901 Evergreen Road, Room 207 CIS, Dearborn, MI 48128. Instrument: X–Ray Computer Tomography System. Manufacturer: Phoenix X–Ray Inc., Germany. Intended Use: The instrument is intended to be used to study the fracture and damage mechanisms of engineering materials. Specifically, 3–D cracks and voids will be traced during a continuous loading process. A requirement for this instrument is that

it have an X–ray tube power high enough to penetrate metal alloy specimens. It must also have a relatively high resolution. Application accepted by Commissioner of Customs: July 17, 2008.

Date July 29, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E8–17805 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 08–00005]

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review to Redberri Global Corporation (Application No. 08–00005).

SUMMARY: On July 21, 2008, the U.S. Department of Commerce issued an Export Trade Certificate of Review to Redberri Global Corporation (''Redberri''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by e-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2008).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Redberri is certified to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

I. Export Trade

1. Products

All Products, with emphasis on products that incorporate technologies such as bio-technology, software, nanotechnology, telemedicine, and other related technologies.

2. Services

All Services.

3. Technology Rights

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as they Relate to the Export of Products, Services, and Technology Rights)

Export Trade Facilitation Services include professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; export trade negotiations; joint ventures; logistical support; export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; and transfer of technology.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights, and provision of Export Trade Facilitation Services, Redberri may:

a. *Sales Prices:* Establish sale prices, minimum sale prices, target sale prices or minimum target sale prices, and other terms of sale, in the Export Markets;

b. *Marketing and Distribution:* Conduct marketing and distribution in the Export Markets;

c. *Promotion:* Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to Suppliers and Export Intermediaries;

d. *Quantities:* Agree on quantities to be sold in Export Markets, provided that each Supplier and Export Intermediary shall be required to dedicate only such quantity or quantities as each Supplier and Export Intermediary shall independently determine;

e. *Market and Customer Allocation:* Allocate geographic areas or countries, orders, or customers in the Export Markets;

f. *Refusals to Deal:* Refuse to quote prices or to market or sell to or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets; and

g. *Exclusive and Nonexclusive Export Intermediaries:* Enter into exclusive and nonexclusive agreements appointing one or more Export Intermediaries, including regional representatives in Export Markets, for the sale in Export Markets, with price, quantity, territorial or customer restrictions as provided above.

2. Redberri may exchange and discuss the following information on a one-to-one basis with its individual Suppliers and Export Intermediaries:

a. Information about sales and marketing efforts for the Export Markets, activities and opportunities for sales of Products, Services, and Technology Rights in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and spot pricing in the Export Markets, projected demands in the Export Markets for Products, Services, and Technology Rights, customary terms of sale in the Export Markets, prices and availability of Products, Services, and Technology rights from competitors for sale in the Export Markets, and specifications for Products, Services, and Technology Rights by customers in the Export Markets;

b. Information about the price, quality, quantity, source, and delivery dates of Products available from Suppliers and Export Intermediaries for export;

c. Information about terms and conditions of contracts for sales in the Export Markets to be considered or bid on by Redberri;

d. Information about bidding or selling arrangements for the Export Markets and allocations among Suppliers and Export Intermediaries of sales resulting from such arrangements;

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs duties, and taxes;

f. Information about U.S. and foreign legislation and regulations, including

federal marketing order programs, affecting sales for the Export Markets;

g. Information about Redberri's export operations, including without limitation, sales and distribution networks established by Redberri or its Suppliers and Export Intermediaries in the Export Markets (including export price information); and

h. Information about export customers' credit terms and credit history.

3. Redberri may meet with its Suppliers and Export Intermediaries on a one-to-one basis to engage in the activities described in paragraphs 1 and 2 above.

4. Redberri and its Suppliers and Export Intermediaries may jointly participate in international trade shows and technology summits.

5. Redberri may market Products, Services, and Technology Rights under brand names to the extent it has the right to use those names under applicable law.

6. Redberri may form and operate electronic portals to promote Products, Services, and Technology Rights through a virtual marketplace for buyers and sellers in Export Markets, and thereby provide access to export trade opportunities, including publicly available overseas government tenders and non-governmental organization tenders.

7. Redberri may provide for or arrange for the provision of Export Trade Facilitation Services.

8. Redberri may negotiate, enter into, and manage exclusive or non-exclusive licensing agreements for the export of Technology Rights.

9. Redberri may enter into exclusive or nonexclusive agreements with Suppliers for the export of Products or Services to the Export Markets.

IV. Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operations, Redberri will not intentionally disclose, directly or indirectly, to any Supplier or Export Intermediary any information about any other Supplier's or Export Intermediary's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. Redberri will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

V. Definitions

1. ''Supplier'' means a person who produces, provides, or sells Products, Services and/or Technology Rights.

2. ''Export Intermediary'' means a person who acts as a distributor, sales representative, sales or marketing agent, import agent, broker, or who performs similar functions including providing or arranging for the provision of Export Trade Facilitation Services.

VI. Protection Provided by Certificate

The Certificate protects Redberri and its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

VII. Effective Period of Certificate

The Certificate continues in effect until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

VIII. Other Conduct

Nothing in the Certificate prohibits Redberri from engaging in conduct not specified in the Certificate, but such conduct is subject to the normal application of the antitrust laws.

IX. Disclaimers

1. The issuance of the Certificate of Review to Redberri by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion of the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of Redberri or (b) the legality of such business plans of Redberri under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

2. The application of the Certificate to conduct in Export Trade where the U.S. Government is the buyer or where the U.S. Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 FR 1786 (January 11, 1985).

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: July 29, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–17798 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Extension of Time Limit for the Preliminary Results of Administrative Review

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

EFFECTIVE DATE: August 4, 2008.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–0780.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 2007, the Department of Commerce (''Department'') published a notice of initiation of an administrative review of fresh garlic from the People's Republic of China (''PRC''), covering the period November 1, 2006, through October 31, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 73315 (December 27, 2007). On March 28, 2008, after receiving quantity and value and separate rate responses, the Department selected the mandatory respondents for this review. The preliminary results of this administrative review are currently due on August 1, 2008.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary

month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it is not practicable to complete the review within the foregoing time period. The Department finds that it is not practicable to complete the preliminary results by the current deadline of August 1, 2008. The Department has gathered and must analyze a significant amount of information pertaining to each company's corporate structure and ownership, sales practices, and manufacturing methods. Furthermore, this review involves the extraordinarily complicated intermediate input methodology issue. Therefore, the Department requires additional time to analyze the questionnaire responses and to issue supplemental questionnaires.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results by 120 days until no later than December 1, 2008,[1] which is 367 days after the last day of the anniversary month of the date of publication of the order. Unless extended, the final results continue to be due 120 days after the publication of the preliminary results, pursuant to section 751(a)(3)(A) of the Act and section 351.213(h)(1) of the Department's regulations.

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

Dated: July 21, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–17831 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Individually Quick Frozen Red Raspberries from Chile

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

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on certain individually quick frozen (IQF) red raspberries from Chile. The period of review (POR) is July 1, 2006, through June 30, 2007. This review covers sales of IQF red raspberries by producer/exporter Sociedad Agroindustrial Valle Frio Ltda. We preliminarily find that, during the POR, sales of IQF red raspberries were not made below normal value. Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: August 4, 2008.

FOR FURTHER INFORMATION CONTACT: Alexander Montoro or Nancy Decker, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0238 and (202) 482–0196, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2002, the Department of Commerce (Department) published an antidumping duty order on certain IQF red raspberries from Chile. *See Notice of Antidumping Duty Order: IQF Red Raspberries From Chile*, 67 FR 45460 (July 9, 2002). On July 3, 2006, the Department published a notice of opportunity to request administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 36420 (July 3, 2007). On July 31, 2007, we received a request for review from Sociedad Agroindustrial Valle Frio Ltda. (Valle Frio).[1] On August 30, 2006, we initiated the fourth administrative review for Valle Frio. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613 (Aug. 24, 2007). On September 17, 2007, the Department issued an antidumping questionnaire to Valle Frio. Valle Frio submitted its initial responses to the antidumping questionnaire from October 2007 through November 2007.

On March 7, 2008, we requested that Valle Frio respond to the Constructed Value (CV) portion of the Department's questionnaire. For further discussion, *see* ''Calculation of Normal Value Based on Constructed Value'' section of this notice.

On March 21, 2008, the Department published in the **Federal Register** an extension of the time limit for the completion of the preliminary results of this review until no later than July 30, 2008, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2). *See Certain Individually Quick Frozen Red Raspberries from Chile: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 15134 (Mar. 21, 2008).

On March 13, 2008, the Department issued a supplemental questionnaire to Valle Frio, and Valle Frio submitted its response on April 7, 2008. On April 1, 2008, Valle Frio submitted a response to Department's request for CV information. After analyzing these responses, we issued a second supplemental questionnaire to Valle Frio on June 13, 2008. We received a timely filed response on July 07, 2008.

Scope of the Order

The products covered by this order are imports of IQF whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.*, organic or not), the size of the container in which packed, or the method of packing. The scope of the order excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this order is currently classifiable under subheading 0811.20.2020 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than normal value (NV), we compared export price (EP) to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. We note that we continue to have outstanding sales reconciliation issues with Valle Frio's responses. For purposes of calculating these

[1] 120 days from August 1, 2008, is November 29, 2008. However, Department practice dictates that where a deadline falls on a weekend, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Act*, 70 FR 24533 (May 10, 2005).

[1] In the third administrative review, the Department collapsed Valle Frio with its affiliated producer, Agricola Framparque (Framparque). *See* Memorandum to Susan Kuhbach, Director, ''*Collapsing of Sociedad Agroindustrial Valle Frio Ltda.*,'' dated July 31, 2006. *See Notice of Preliminary Results of Antidumping Duty Administrative Review, Notice of Intent to Revoke in Part: Certain Individually Quick Frozen Red Raspberries from Chile* (unchanged in final) (*Third Administrative Review of Raspberries from Chile*), 71 FR 45000, 45001 (Aug. 8, 2006). There has been no change in the facts since then, so for the instant administrative review, we are treating Valle Frio and Framparque as a single entity.

preliminary results, we are accepting the data provided by Valle Frio. However, we intend to ask for further information following publication of these preliminary results to determine whether the aforementioned responses accurately reflect Valle Frio's sales.

Product Comparison

In accordance with section 771(16) of the Act, we considered all products sold by the respondent in the comparison market covered by the description in the ''Scope of the Order'' section, above, to be foreign–like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign–like product to the volume of its U.S. sales of the subject merchandise. *See* the ''Normal Value'' section, below, for further details.

Normally, we compare U.S. sales to monthly weighted average prices of contemporaneous sales made in the comparison market. The Department determined that for merchandise sold in the United States, Valle Frio did not have valid comparison market sales matches because the calculated difference–in-merchandise (DIFMER) was greater than twenty percent for all matches for reported U.S. sales control numbers (CONNUMs). *See* Memorandum to the File, ''*Difference–in-merchandise Calculation for Sociedad Agroindustrial Valle Frio Ltda.*'' dated March 7, 2008; and Memorandum from Yasmin Nair, International Trade Compliance Analyst, to Susan Kuhbach, Director, Office 1, ''*Request for Constructed Value*'' dated March 7, 2008. Since there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value (CV). In making product comparisons, consistent with our determination in the original investigation, we matched foreign like products based on the physical characteristics reported by the respondent in the following order: grade, variety, form, cultivation method, and additives. *See Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: IQF Red Raspberries from Chile*, 66 FR 67510, 67511 (Dec. 31, 2001) unchanged in *Final Determination*.[2]

Normally, the Department employs invoice date as the date of sale. *See* 19 CFR 351.401(i). However, if the Department determines that another date reflects the date on which the exporter or producer establishes the material terms of sale, the Department may use this date. *See id.* Valle Frio ships the subject merchandise on or before the date of invoice. We are using the date of shipment (*i.e.*, *guia de despacho*/dispatch note date) as the date of sale, because this is the date on which the material terms of sale were established. *See*, *e.g.*, *Certain Cold–Rolled and Corrosion–Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172–73 (March 18, 1998).

Export Price

For sales to the United States, we calculated Export Price (EP), in accordance with section 772 of the Act. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States.

We calculated EP because the merchandise was sold by the exporter or producer outside the United States to an unaffiliated purchaser in the United States prior to importation and because constructed export price methodology was not otherwise warranted. We based EP on the packed, FOB price to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, inland freight incurred in transporting merchandise to the Chilean port and domestic brokerage and handling expenses.

Normal Value

Home Market Viability

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign–like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP. Quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. *See* 19 CFR 351.404(b)(2).

Valle Frio reported that its home market sales of IQF red raspberries during the POR were less than five percent of its sales of IQF red raspberries to the United States. Therefore, Valle Frio did not have a viable home market for purposes of calculating NV. Valle Frio reported sales to France, which was its largest third country market. Valle Frio reported that no other third country markets were viable and sales to France exceeded five percent of its sales to the United States. Accordingly, for purposes of calculating NV, Valle Frio reported its sales to France.

To derive NV, we made the adjustments detailed in the ''Calculation of Normal Value Based on Comparison Market Prices'' and ''Calculation of Normal Value Based on Constructed Value'' sections, below.

A. Calculation of Normal Value Based on Comparison Market Prices

Even though, as explained above, Valle Frio did not have valid comparison market sales matches, we calculated NV for purposes of determining selling expenses and profit to be included in CV. To calculate the CV profit percentage, we based comparison market prices on the packed prices to unaffiliated purchasers in France. We adjusted the starting price by deducting movement expenses, including, where appropriate, inland freight from the plant to the port, international freight, and container handling/brokerage charges. We also deducted direct and indirect selling expenses incurred for comparison market sales (*e.g.*, commissions, microbiological/pesticide testing, label expenses), and comparison market packing expenses. We then deducted total comparison market cost of production from the net comparison market price, and divided by total comparison market cost of production to arrive at the CV profit percentage. See Memorandum to the File, ''*Preliminary Results Calculation Memorandum for Sociedad Agroindustrial Valle Frio Ltda.,*'' dated July 28, 2008 (Valle Frio Preliminary Calculation Memorandum), which is on file in the Department's Central Records Unit, Room 1117 of the–main Department building.

[2] *See Notice of Final Determination of Sales at Less Than Fair Value: IQF Red Raspberries from Chile*, 67 FR 35790 (May 21, 2002) (''*Final Determination*'').

B. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison–market sales, NV may be based on CV. As noted above, the Department determined that for merchandise sold in the United States, Valle Frio did not have valid comparison market sales matches because the calculated DIFMER was greater than the twenty percent for all matches for reported U.S. sales CONNUMs. *See* Memorandum to the File, ''*Difference–in-merchandise Calculation for Sociedad Agroindustrial Valle Frio Ltda.*'' dated March 7, 2008; and Memorandum from Yasmin Nair, International Trade Compliance Analyst, to Susan Kuhbach, Director, Office 1, ''*Request for Constructed Value*'' dated March 7, 2008. Accordingly, we based NV on the CV. Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative (SG&A) expenses, profit, and U.S. packing costs. We based SG&A expenses and profit on the actual amounts incurred and realized by the respondent in connection with the production and sale of the foreign–like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. We used U.S. packing costs as described in the ''Export Price'' section, above.

We relied on the CV data submitted by Valle Frio. We note that we continue to have outstanding cost reconciliation and valuation issues with Valle Frio's responses. For purposes of calculating these preliminary results, we are accepting the data provided by Valle Frio. However, we intend to ask for further information following publication of these preliminary results to determine whether the aforementioned responses accurately reflect Valle Frio's constructed value.

We made adjustments to CV for differences in Circumstances of Sale (COS) in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses to, CV. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: (1) the amount of the commission paid in the U.S. market; or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV (based on CV) following the same methodology.

Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Act based on the exchange rates in effect on the date of the U.S. sale as reported by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily find the following weighted–average dumping margin:

Exporter/manufacturer	Weighted–average margin percentage
Sociedad Agroindustrial Valle Frio Ltda./ Agricola Framparque	0.28 (*de minimis*)

Public Comment and Disclosure

Within ten days of publicly announcing the preliminary results of this review, we will disclose to interested parties any calculations performed in connection with the preliminary results. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 37 days after the publication of this notice, or the first business day thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. *See* 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument with an electronic version included; and (3) a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for all sales made by Valle Frio for which it has reported the importer of record and the entered value of the U.S. sales, we have calculated importer–specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Where the respondent did not report the entered value for U.S. sales, we have calculated importer–specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer–specific *ad valorem* rates based on the estimated entered value. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue assessment instructions directly to CBP within 15 days of publication of the final results of this review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

On July 20, 2007, the Department published a **Federal Register** notice that, inter alia, revoked this order, effective July 9, 2007. See IQF Red

Raspberries from Chile: Final Results of Sunset Review and Revocation of Order, 72 FR 39793 (July 20, 2007). Therefore, there will be no need to issue new cash deposit instructions pursuant to the final results of this administrative review.

Notification to Importers

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

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

Dated: July 28, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–17810 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates from Spain: Notice of Rescission of Antidumping Duty New Shipper Review

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

SUMMARY: In response to a request from Inquide Flix S.A. (Inquide), on February 13, 2008, the Department of Commerce (the Department) published in the **Federal Register** a notice announcing the initiation of a new shipper review of the antidumping duty order on chlorinated isocyanurates from Spain, covering the period June 1, 2007, through November 30, 2007. On July 22, 2008, Inquide withdrew its request for a new shipper review and, therefore, we are rescinding this review.

EFFECTIVE DATE: August 4, 2008.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780.

Background

The Department received a timely request from Inquide, in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on chlorinated isocyanurates from Spain. On February 13, 2008, the Department found that the request for review with respect to Inquide met all of the regulatory requirements set forth in 19 CFR 351.214(b) and initiated an antidumping duty new shipper review. *See Chlorinated Isocyanurates from Spain: Initiation of Antidumping Duty New Shipper Review*, 73 FR 8290 (February 13, 2008) (*Initiation Notice*). However, the Department noted in the initiation notice that it had concerns with Inquide's eligibility for a new shipper review, specifically regarding Inquide's certification that it had never been affiliated with any producers or exporters of subject merchandise. *See Initiation Notice*.

On February 14, 2008, the Department issued a questionnaire requesting that Inquide clarify whether it has ever been affiliated with any exporter or producer who exported subject merchandise to the United States during the original period of investigation. Included in this questionnaire was documentation from the first administrative review of chlorinated isocyanurates from Spain, which called into question Inquide's certification regarding its affiliations. *See* the Department's February 14, 2008 questionnaire. Inquide responded to our questionnaire on February 26, 2008.

On July 22, 2008, Inquide withdrew its request for a new shipper review.

Rescission of New Shipper Review

Section 351.214(f)(1) of the Department's regulations provides that the Department may rescind a new shipper review if the party that requested the review withdraws its request for review within 60 days of the date of publication of the notice of initiation of the requested review. Although Inquide withdrew its request after the 60–day deadline, we find it reasonable to extend the deadline because we have not yet committed significant resources to the Inquide new shipper review. Specifically, we have not issued the initial questionnaire. Further, Inquide was the only party to request this review. Finally, we have not received any submissions opposing the withdrawal of the request for the review. For these reasons, we are rescinding the new shipper review of the antidumping duty order on chlorinated isocyanurates from Spain with respect to Inquide in accordance with 19 CFR 351.214(f)(1).

Notification

As the Department is rescinding this antidumping duty new shipper review, normally, the all–others rate in effect at the time of entry, 24.83 percent *ad valorem*, would apply to all exports of chlorinated isocyanurates from Spain by Inquide entered, or withdrawn, from warehouse for consumption during the period of review (June 1, 2007, through November 30, 2007). However, a request for a review of Inquide's shipments has also been made for the administrative review of chlorinated isocyanurates from Spain, covering the period June 1, 2007 through May 31, 2008. Because the sale(s) from this new shipper review also fall within the period of review of the administrative review, the Department will not issue assessment instructions to U.S. Customs and Border Protection (CBP) at this time. Upon the completion of the June 1, 2007 through May 31, 2008 administrative review, the Department will issue assessment instructions to CBP as appropriate.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

This new shipper rescission and notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: July 25, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–17816 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ41

Endangered Species; File No. 1549

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

ACTION: Notice; receipt of application for modification

SUMMARY: Notice is hereby given that Dr. Boyd Kynard, S.O. Conte Anadromous Fish Research Center (USGS–BRD), Box 796, One Migratory Way, Turners Falls, MA 01376, has requested a modification to scientific research Permit No. 1549.

DATES: Written, telefaxed, or e-mail comments must be received on or before September 3, 2008.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394.

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

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

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1549.

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

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1549, issued on February 1, 2007 (72 FR 5680), is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1549 currently authorizes the permit holder to determine up and downstream migrations, habitat use, spawning periodicity, seasonal movements, and growth of shortnose sturgeon in the Connecticut River (from Agawan to Montague, MA), and in the Merrimack River (at Haverhill, MA), and in the Androscoggin River (ME). In addition, Dr. Kynard is authorized to take a total of 1,000 fertilized eggs annually from each of the following rivers: Kennebec River and Androscoggin River (ME); Merrimack River (MA); Hudson River (NY); Delaware River (DE); Potomac River (MD); and Santee-Cooper River (SC).

The permit holder is now requesting to conduct new research in the Merrimack River authorizing him: (1) to take 200 adult/large juvenile and 100 small juvenile (0–3 years) shortnose sturgeon; (2) to use trawls for capture of smaller juveniles; (3) to telemetry tag 15 adults/large juveniles and 15 early juveniles; (4) to change the action area to include the Estuary to I–495 at Haverhill, Massachusetts; and (5) to increase incidental mortality of shortnose sturgeon to a total of three fish. The purpose of the proposed modification is to provide a mark/recapture population estimate for the river and to provide evidence for recolonization verses recruitment to explain an apparent recent increase in abundance of shortnose sturgeon found in the river. This modification would be valid through the expiration date of the original permit, January 31, 2012.

Dated: July 28, 2008.

P. Michael Payne,

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

[FR Doc. E8–17818 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ45

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Committee in August, 2008 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, August 25, 2008, at 9 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960: telephone: (978) 535–4600; fax: (978) 535–8238.

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

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

SUPPLEMENTARY INFORMATION: The Committee will review and finalize the Draft Amendment 3 document, which is scheduled for public hearings in October. The Plan Development Team (PDT) will also recommend a rebuilding schedule and plan for smooth skate that NMFS recently determined has become overfished. Amendment 3 proposes catch limits, time/area closures, and possession limits to reduce skate landings and mortality to levels that are consistent with rebuilding smooth, thorny and winter skate biomass while preventing overfishing.

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

Special Accommodations

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

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

Dated: July 29, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–17734 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ46

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel, in August, 2008, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, August 20, 2008, at 8:30 a.m.

ADDRESSES: This meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000; fax: (401) 732–9309.

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

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

SUPPLEMENTARY INFORMATION: The committee will review public scoping comments on Amendment 15 and provide initial input on a range of alternatives developed by the Scallop Committee to date. The scoping issues included: implementation of annual catch limits (ACLs); measures to rationalize the limited access scallop fishery; revision of the overfishing definition; modifications to specific aspects of the general category limited entry program implemented by Amendment 11; measures to address essential fish habitat (EFH) closed areas in the Scallop Fishery Management Plan (FMP) if the EFH Omnibus Amendment is delayed; alternatives to improve the research set-aside program; and modifying the start date of the scallop fishing year. Other issues may also be discussed based on input from scoping hearings and a previous Scallop Committee meeting on July 8, 2008. The committee will also review Scallop Plan Development Team (PDT) discussion of Section 7 Endangered Species Act Consultation for the Scallop FMP (Biological Opinion). Overall, the biological opinion concluded that the scallop fishery may adversely affect, but is not likely to jeopardize, continued existence of four sea turtle species. Thus, NMFS is required to identify and implement reasonable and prudent measures (RPMs) necessary to minimize impacts of any incidental take. The Advisors may review PDT recommendations for how best to comply with these measures and provide input for the Scallop Committee to consider. The committee may discuss other topics at their discretion.

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

Special Accommodations

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

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

Dated: July 29, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–17735 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ48

Marine Mammals; File No. 605–1904

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

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that the Whale Center of New England (WCNE) (Mason Weinrich, Principal Investigator), P.O. Box 159, Gloucester, MA 01930, has requested an amendment to scientific research Permit No. 605–1904.

DATES: Written, telefaxed, or e-mail comments must be received on or before September 3, 2008.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727)824–5312; fax (727)824–5309.

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

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

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 605–1904–01.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Kristy Beard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 605–1904, issued on February 21, 2008 (73 FR 10744) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 605–1904 authorizes the permit holder to harass humpback (*Megaptera novaengliae*), fin (*Balaenoptera physalus*), and sei (*Balaenoptera borealis*) whales along the U.S. Atlantic coast during close approaches for vessel surveys, photo-identification, tracking, and incidental harassment annually. During approaches, researchers may suction-cup tag and/or biopsy sample whales greater than six months of age. A subset of approached humpback and fin whale

calves three to six months of age may also be biopsy sampled. The original application submitted by the WCNE included a request to conduct research on North Atlantic right whales (*Eubalaena glacialis*). At the time of permit issuance, takes for right whales were not authorized. NMFS is now reviewing the right whale portion of the request as an amendment to Permit No. 605–1904. The WCNE requests authorization to harass up to 75 North Atlantic right whales annually during close vessel approaches for photo-identification, behavioral observation, and prey sampling. This work would continue long-term population monitoring to determine status and trends of this species in the North Atlantic. The amendment would be valid until the permit expires on February 15, 2013.

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

Dated: July 29, 2008.

P. Michael Payne,

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

[FR Doc. E8–17813 Filed 8–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

[OE Docket No. PP–334]

Notice of Intent To Prepare an Environmental Assessment and To Conduct Public Scoping Meetings; Baja Wind U.S. Transmission, LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Intent To Prepare an Environmental Assessment (EA) and To Conduct Public Scoping Meetings.

SUMMARY: The Department of Energy (DOE) will prepare an EA and hold public scoping meetings on the proposed Federal action of granting a Presidential permit to Baja Wind U.S. Transmission, LLC (Baja Wind) to construct a new electric transmission line at the U.S.-Mexico border in San Diego County, California, near the community of Jacumba. The proposed international transmission line would originate at a wind generation facility to be located in northern Baja California, Mexico, cross the U.S.-Mexico international border, and extend one mile into the U.S. where it would terminate at a substation to be constructed by San Diego Gas & Electric Company (SDG&E) adjacent to the existing Southwest Powerlink (SWPL) 500–kV transmission line, located in San Diego County, California. Baja Wind has applied to DOE's Office of Electricity Delivery and Energy Reliability (OE) for a Presidential permit to construct either a double-circuit 230-kilovolt (kV) or a single-circuit 500-kV electric transmission line across the U.S. border with Mexico.

The EA, entitled *Baja Wind U.S. Transmission Environmental Assessment* (DOE/EA–399) will address potential environmental impacts from the proposed action and the range of reasonable alternatives. The EA will be prepared in compliance with the National Environmental Policy Act of 1969 (NEPA) and applicable regulations, including Council on Environmental Quality NEPA Implementing Regulations (40 CFR parts 1500–1508) and DOE NEPA implementing regulations at 10 CFR Part 1021. It will help DOE determinie whether to prepare an EIS. Given that the proposed transmission line is short, and that the imports into the U.S. appear to be small, DOE believes an EA is appropriate.

DOE invites the public to participate in determining the scope of the EA by suggesting alternatives and pointing out potential environmental impacts. If at any time during preparation of the EA DOE determines that an environmental impact statement (EIS) is needed, DOE will issue a Notice of Intent to prepare an EIS in the **Federal Register**. In that case, this scoping process will serve as the scoping process that normally would follow a Notice of Intent to prepare an EIS. Accordingly, DOE will consider any comments on the scope of the EA received during this scoping process in preparing such an EIS.

DATES: DOE invites interested agencies, organizations, Native American tribes, and members of the public to submit comments or suggestions to assist in identifying any potentially significant environmental issues and in determining the scope of the EA. The public scoping period starts with the publication of this Notice in the **Federal Register** and will continue until September 3, 2008. DOE will consider all comments received or postmarked by September 3, 2008 in defining the scope of the EA. Comments received or postmarked after that date will be considered to the extent practicable.

Public scoping meetings will be held on August 26, 2008, from 1 p.m. to 3 p.m., and again from 5 p.m. to 7 p.m., at the Jacumba Highland Center, 44681 Old Highway 80, Jacumba, California.

ADDRESSES: Written comments or suggestions on the scope of the EA should be addressed to: Mrs. Ellen Russell, Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350; phone 202–586–9624, facsimile at 202–586–8008, or electronic mail at *Ellen.Russell@hq.doe.gov*.

FOR FURTHER INFORMATION: For further information on the proposed project, on the Presidential permit process, or to receive a copy of the pre-approval EA when it is issued for state and public review, contact Ellen Russell at the address listed in the **ADDRESSES** section of this notice. The Baja Wind Presidential permit application, including associated maps and drawings, can be downloaded in its entirety from the OE program Web site *http://www.oe.energy.gov/permits.htm.*

For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0103; phone 202–586–4600, leave a message at 800–472–2756, or facsimile to 202–586–7031.

SUPPLEMENTARY INFORMATION: Executive Order (EO) 10485, as amended by EO 12038, requires that a Presidential permit be issued by DOE before electric transmission facilities may be constructed, operated, maintained, or connected at the U.S. international border. The EO provides that a Presidential permit may be issued after a finding that the proposed project is consistent with the public interest and after favorable recommendations from the U.S. Departments of State and Defense. In determining consistency with the public interest, DOE considers the environmental impacts of the proposed project under NEPA, determines the project's impact on electric reliability (including whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions), and considers any other factors that DOE may find relevant to the public interest. The regulations implementing the EO have been codified at 10 CFR 205.320–205.329. DOE's issuance of a Presidential permit indicates that there is no Federal objection to the project, but does not mandate that the project be undertaken.

Agency Purpose and Need, Proposed Action, and Alternatives

The purpose and need for DOE's action is to decide whether to grant Baja Wind's application for a Presidential permit for the proposed international electric transmission line. DOE's proposed action is to issue a Presidential permit for the construction, operation, maintenance, and connection of the proposed international electric transmission line. If granted, the Presidential permit would authorize only the one-mile portion of the applicant's proposal that would be constructed and operated wholly within the United States.

Both of Baja Wind's alternatives would cross the U.S.-Mexican border at the same location. However, the alternative identified as A1 in the Presidential permit application would be constructed at 500-kV and would be the eastern alternative; the alternative identified as A2 would be constructed at 230-kV and be located to the west of the A1 alternative. Both alternatives would be located wholly within private property in eastern San Diego County near the unincorporated community of Jacumba. In addition to the alternatives proposed by Baja Wind, DOE will consider reasonable alternatives that are identified during scoping. The EA will also consider the environmental impacts of a ''No Action'' alternative.

Baja Wind's proposed transmission line would connect wind turbines (the La Rumorosa Project) to be located in the vicinity of La Rumorosa, Baja California, Mexico, to San Diego Gas & Electric's existing Southwest Powerlink transmission line. The proposed transmission line would consist of either a double-circuit 230-kV or a single-circuit 500-kV transmission line installed on either lattice towers or steel monopoles. The La Rumorosa Project and the two-mile portion of transmission facilities located in Mexico would be constructed, owned, operated, and maintained by a subsidiary of Sempra Energy Mexico and would be subject to the permitting requirements of the Mexican Government. The proposed one-mile long transmission line within the United States would be on private land and constructed, owned, operated, and maintained by Baja Wind. The entire electrical output of the La Rumorosa Project (1250 megawatts, approximately 260 to 300 turbines) would be dedicated to the U.S. market and delivered using the proposed international transmission line. The EA will only consider impacts that occur inside the United States.

Baja Wind's proposed transmission line would connect to a new substation to be constructed by SDG&E in response to requests by power suppliers to connect to the SWPL. The proposed substation would be located just south of the SWPL right-of-way and would contain equipment for accepting interconnections at both the 230-kV and the 500-kV level. The 230-kV connection equipment would be located just to the west of the 500-kV connection equipment, both within the confines of the substation boundary. Accordingly, Baja Wind has identified two routing/voltage alternatives to coincide with interconnection at 230-kV or the 500kV level.

Identification of Environmental Issues

In the EA, DOE will examine public health and safety effects and environmental impacts in the United States from the proposed transmission facilities and from the wind farm to the extent that any impacts from it occur within the United States. DOE invites Tribal governments, Federal, State and local agencies, and those entities with jurisdiction by law or special expertise with respect to environmental issues to be cooperating agencies in the preparation of the EA, as defined at 40 CFR 1501.6.

This notice is to inform the public of the proposed project and to solicit comments and suggestions for consideration in the preparation of the EA. To help the public frame its comments, this notice contains a preliminary list of potential environmental issues that DOE has tentatively identified for analysis. These issues include:

1. Impacts on protected, threatened, endangered, or sensitive species of animals or plants, or their critical habitats, e.g., the quino checkerspot butterfly and migratory birds;
2. Impacts on cultural or historic resources;
3. Impacts on human health and safety;
4. Impacts on air, soil, and water;
5. Visual impacts;
6. Socioeconomic impacts;
7. Disproportionately high and adverse impacts on minority and low-income populations;
8. Impacts that would accrue to the U.S. as a result of related activities occurring inside Mexico (e.g., dust from the construction process inside Mexico or location of wind generators within view of the U.S.); and
9. Cumulative impacts.

On February 22, 2008, DOE published a notice in the **Federal Register** (73 FR 9782) announcing receipt of the Baja Wind Presidential permit application and soliciting public comments. Comments received on that notice identified potential environmental impacts that may be associated with this proposed project, for example, impacts on threatened or endangered species, critical habitat, and migratory birds.

Several commenters in this proceeding have asked DOE to evaluate the impacts associated with activities that will occur inside Mexico (*e.g.*, from the construction and operation in Mexico of the wind generators). NEPA does not require an analysis of environmental impacts that occur within another sovereign nation that result from approved actions by that sovereign nation. The EA will evaluate all relevant environmental impacts within the U.S. related to the proposed action.

Scoping Process

Interested parties are invited to participate in the scoping process both to refine the environmental issues to be analyzed and to identify the reasonable range of alternatives. Both oral and written comments will be considered and given equal weight by DOE.

Public scoping meetings will be held at the location, date, and times indicated above under the **DATES** section. The scoping meetings will provide interested parties the opportunity to view proposed project exhibits, ask questions, and comment on the EA scope. The DOE presiding officer will establish only those procedures needed to ensure that everyone who wishes to speak has a chance to do so and that DOE understands all issues and comments. Speakers will be allocated approximately 10 minutes for their oral statements. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings, but advance requests are encouraged. Should any speaker desire to provide further information that cannot be presented within the designated time, such additional information may be submitted in writing by the date listed in the **DATES** section. Both oral and written comments will be considered and given equal weight by DOE.

The pre-approval EA is planned to be issued for state and public review by the spring of 2009. Persons submitting comments during the scoping process will receive a copy. Persons who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the document for review when it is issued should notify Ellen Russell at the address provided above.

Issued in Washington, DC, on July 30, 2008.

Kevin M. Kolevar,

Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E8–17840 Filed 8–1–08; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8700–5]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Solutia, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Decisions on No Migration Petition Reissuances.

SUMMARY: Notice is hereby given that exemptions to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act have been granted to Solutia, Inc, Chocolate Bayou Facility (Solutia) for two Class I injection wells located at Alvin, Texas. As required by 40 CFR Part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petitions and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. These final decisions allow the underground injection by Solutia, of the specific restricted hazardous wastes identified in these exemptions, into Class I hazardous waste injection wells Nos. WDW–224 and WDW–326 at the Chocolate Bayou, Alvin, Texas facility, until December 31, 2026, unless EPA moves to terminate these exemptions under provisions of 40 CFR 148.24. Additional conditions included in these final decisions may be reviewed by contacting the Region 6 Ground Water/UIC Section. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued June 5, 2008. The public comment period closed on July 21, 2008. No comments were received. These decisions constitute final Agency action and there is no Administrative appeal. These decisions may be reviewed/appealed in compliance with the Administrative Procedure Act.

DATES: These actions are effective as of July 28, 2008.

ADDRESSES: Copies of the petitions and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7150.

Dated: July 28, 2008.

Miguel I. Flores,

Division Director, Water Quality Protection Division.

[FR Doc. E8–17815 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 29, 2008.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection(s). Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before October 3, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your comments by e-mail to *PRA@fcc.gov*. Include in the e-mail the OMB control number of the collection or, if there is no OMB control number, the Title shown in the **SUPPLEMENTARY INFORMATION** section below. If you are unable to submit your comments by e-mail contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) or to obtain a copy of the collection send an e-mail to *PRA@fcc.gov* and include the collection's OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below (or the title of the collection if there is no OMB control number), or call Jerry Cowden at 202–418–0447.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0204.

Title: Special Eligibility Showings for Authorizations in the Public Safety Pool (47 CFR 90.20(a)(2)(v) and 90.20(a)(2)(xi)).

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals and businesses.

Number of Respondents and Responses: 220 respondents; 220 responses.

Estimated Time per Response: 0.686 hour (range of 3 minutes to 45 minutes).

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 151 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: The information collection in 47 CFR 90.20(a)(2)(v) affects individuals, and there is a system of records that covers it (FCC/WTB–1, Wireless Services Licensing Records).

Nature and Extent of Confidentiality: Requests to withhold information submitted to the Commission from public inspection will be treated in accordance with section 0.459 of the Commission's rules.

Needs and Uses: The Commission collects this information to ensure that certain non-governmental applicants applying for the use of frequencies in the Public Safety Pool meet the eligibility criteria set forth in the Commission's rules. The collection is being revised to consolidate under one OMB control number two information collections that were previously under separate OMB control numbers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–17820 Filed 8–1–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

July 29, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 3, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov* or *PRA@fcc.gov.*

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 52,285 respondents; 52,285 responses.

Estimated time per Response: 2.5–109 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,831,706 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission adopted on February 19, 2008, a Report and Order, *In the Matter DTV Consumer Education Initiative,* MB Docket 07–148, FCC 08–56. The Report and Order adds a new recordkeeping requirement for full-power commercial and noncommercial educational TV broadcast stations (both analog and digital) for the contents of their public inspection files. Specifically, the rule requires these stations to retain in their public inspection file a copy of their DTV Consumer Education Quarterly Activity Report, FCC Form 388, on a quarterly basis. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. These Reports shall be retained in the public inspection file for one year. Broadcasters shall publicize in an appropriate manner the existence and location of these Reports.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–17821 Filed 8–1–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

July 29, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 3, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov* or *PRA@fcc.gov.*

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0706.

Title: Section 76.952 and 76.990, Cable Act Reform.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 70 respondents; 70 responses.

Estimated Time per Response: 1 hour–8 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in the Telecommunications Act of 1996, Pub. L. No. 104–104, Sections 301 and 302.

Total Annual Burden: 210 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: 47 CFR Section 76.952 states that all cable operators must provide to the subscribers on monthly bills the name, mailing address and phone number of the franchising authority, unless the franchising authority in writing requests that the cable operator omits such information. The cable operator must also provide subscribers with the FCC community unit identifier for the cable system in their communities.

47 CFR Section 76.990(b)(1) requires that a small cable operator, may certify in writing to its franchise authority at any time that it meets all criteria necessary to qualify as a small operator. Upon request of the local franchising authority, the operator shall identify in writing all of its affiliates that provide cable service, the total subscriber base of itself and each affiliate, and the aggregate gross revenues of its cable and non-cable affiliates. Within 90 days of receiving the original certification, the local franchising authority shall determine whether the operator qualifies for deregulation and shall notify the operator in writing of its decision, although this 90-day period shall be tolled for so long as it takes the operator to respond to a proper request for information by the local franchising authority. An operator may appeal to the Commission a local franchise authority's information request if the operator seeks to challenge the information request as unduly or unreasonably burdensome. If the local franchising authority finds that the operator does not qualify for deregulation, its notice shall state the grounds for that decision. The operator may appeal the local franchising authority's decision to the Commission within 30 days.

47 CFR Section 76.990(b)(3) requires that within 30 days of being served with a local franchising authority's notice that the local franchising authority intends to file a cable programming services tier rate complaint, an operator may certify to the local franchising authority that it meets the criteria for qualification as a small cable operator. This certification shall be filed in accordance with the cable programming services rate complaint procedure set forth in § 76.1402. Absent a cable programming services rate complaint, the operator may request a declaration of CPST rate deregulation from the Commission pursuant to § 76.7.

On March 26, 1999, the Commission released a *Report and Order,* FCC 99–12, CS Docket 98–132, that among other things removed the requirements of 76.1404. With this submission we have removed the associated burdens.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–17825 Filed 8–1–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve 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.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection,

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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before September 30, 2008.

ADDRESSES: You may submit comments, identified by FR 2028, FR 2572, or FR 2900 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 docket number in the subject line of the message.
- FAX: 202–452–3819 or 202–452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form 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.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Reports

1. *Report title:* Survey of Terms of Lending.

Agency form number: FR 2028A, FR 2028B, and FR 2028S.

OMB control number: 7100–0061.

Frequency: Quarterly.

Reporters: Commercial banks and U.S. branches and agencies of foreign banks (FR 2028A and FR 2028S only).

Annual reporting hours: 6,840 hours.

Estimated average hours per response: FR 2028A, 3.4 hours; FR 2028B, 1.2 hours; and FR 2028S, 0.1 hours.

Number of respondents: FR 2028A, 398; FR 2028B, 250; and FR 2028S, 567.

General description of report: This information collection is authorized by section 11(a)(2) of the Federal Reserve Act [12 U.S.C. 248(a)(2)] and is voluntary. Individual responses are regarded as confidential under the Freedom of Information Act [5 U.S.C. 552(b)(4)].

Abstract: The Survey of Terms of Lending provides unique information concerning both price and certain nonprice terms of loans made to businesses and farmers during the first full business week of the mid-month of each quarter (February, May, August, and November). The survey comprises three reporting forms: The FR 2028A, Survey of Terms of Business Lending; The FR 2028B, Survey of Terms of Bank Lending to Farmers; and the FR 2028S, Prime Rate Supplement to the Survey of Terms of Lending. The FR 2028A and FR 2028B collect detailed data on individual loans made during the survey week, and the FR 2028S collects the prime interest rate for each day of the survey from both FR 2028A and FR 2028B respondents. From these sample data, estimates of the terms of business loans and farm loans extended during the reporting week are constructed. The aggregate estimates for business loans are published in the quarterly E.2 release, *Survey of Terms of Business Lending,* and aggregate estimates for farm loans are published in the quarterly E.15 release, *Agricultural Finance Databook.*

Current Actions: The Federal Reserve proposes to revise the FR 2028A by increasing to $7,500 the minimum loan size that must be reported and to clarify the instructions about certain types of loans. These revisions would be implemented effective for the February 2009 survey week. No changes are proposed to the FR 2028S.

2. *Report title:* Report of Terms of Credit Card Plans.

Agency form number: FR 2572.

OMB control number: 7100–0239.

Frequency: Semi-annual.

Reporters: Commercial banks, savings banks, industrial banks, and savings and loans associations.

Annual reporting hours: 75 hours.

Estimated average hours per response: 0.25 hours.

Number of respondents: 150.

General description of report: This information collection is voluntary (15 U.S.C. § 1646(b)) and is not given confidential treatment.

Abstract: This report collects data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards to the general public. The information is reported to the Congress and made available to the public in order to promote competition within the industry.

Current Actions: The Federal Reserve proposes to move the contact information from the end of the reporting form to the front of the reporting form, include a new line for the contact's e-mail address, and provide examples for columns A and D and items 56 thru 58 in the instructions to improve data quality.

3. *Report title:* The Report of Transaction Accounts, Other Deposits and Vault Cash.

Agency form number: FR 2900.

OMB control number: 7100–0087.

Frequency: Weekly, quarterly.

Reporters: Depository institutions.

Annual reporting hours: 615,902 hours.

Estimated average hours per response: 3.50 hours.

Number of respondents: 2,996 weekly and 5,045 quarterly.

General description of report: This information collection is mandatory (12 U.S.C. 248(a), 461, 603, and 615) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: Nonexempt institutions—defined as those with net transaction accounts greater than the exemption amount or with the sum of total transaction accounts, savings deposits, and small time deposits equal to or greater than the reduced reporting limit—file the fifteen-item FR 2900

weekly if the sum of their total transaction accounts, savings deposits, and small time deposits is equal to or greater than the nonexempt deposit cutoff and quarterly if the sum of their total transaction accounts, savings deposits, and small time deposits is less than the nonexempt deposit cutoff. U.S. branches and agencies of foreign banks and banking Edge and agreement corporations are required to submit FR 2900 data weekly regardless of their deposit size. These mandatory data are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates.

Current actions: The Federal Reserve proposes to: (1) Replace the term ''operations subsidiary'' with ''majority-owned subsidiary'' in the FR 2900 reporting instructions and (2) incorporate the proposed amendments to Regulation D into the FR 2900 reporting instructions. In addition, the Federal Reserve proposes to reorganize and reformat the FR 2900 reporting instructions to enhance their clarity.

4. *Report title:* The Annual Report of Deposits and Reservable Liabilities.

Agency form number: FR 2910a.

OMB control number: 7100–0175.

Frequency: Annually.

Reporters: Depository institutions.

Annual reporting hours: 3,659 hours.

Estimated average hours per response: 0.75 hours.

Number of respondents: 4,878.

General description of report: This information collection is mandatory (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: Currently, the three-item FR 2910a is generally filed by exempt institutions whose net transaction accounts are less than or equal to the exemption amount and whose sum of total transaction accounts, savings deposits, and small time deposits is less than the reduced reporting limit but total deposits are greater than the exemption amount. Respondents submit single-day data as of June 30. These mandatory data are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates.

Current actions: The Federal Reserve proposes to: (1) Replace the term ''operations subsidiary'' with ''majority-owned subsidiary'' in the FR 2910a reporting instructions and (2) incorporate the proposed amendments to Regulation D into the FR 2910a reporting instructions. In addition, the Federal Reserve proposes to reorganize and reformat the FR 2910a reporting instructions to enhance their clarity.

Board of Governors of the Federal Reserve System.

Dated: July 29, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–17716 Filed 8–1–08; 8:45 am]

BILLING CODE 6210–01–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 applications 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 August 29, 2008.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. Campello Bancorp, Inc., Brockton, Massachusetts, to become a bank holding company by acquiring 100 percent of the voting shares of The Community Bank, a Massachusetts Co–operative Bank, Brockton, Massachusetts, in connection with the conversion of Campello Bancorp, Brockton, Massachusetts, from mutual to stock form.

In connection with this application, the applicant also has applied to acquire Cody Services Corporation, Brockton, Massachusetts, and thereby engage in loan servicing activities, pursuant to section 225.28(b)(1) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Whitney Holding Corporation, New Orleans, Louisiana, to merge with Parish National Corporation, Covington, Louisiana, and thereby indirectly acquire Parish National Bank, Bogalusa, Louisiana.

Board of Governors of the Federal Reserve System, July 30, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–17801 Filed 8–1–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–08BK]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Exploratory Research with People Living with Lung Cancer—New—Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Lung cancer is the most common cancer and leading cause of cancer related mortality in the world. Each year, over 150,000 Americans are diagnosed with lung cancer and a similar number die from the disease. Due to the relatively low survival rate for individuals with lung cancer (the five-year survival rate of all patients with lung cancer is only 15%), the needs of individuals affected by lung cancer have received less attention in health care research than the needs of individuals with other types of cancer, resulting in a gap in knowledge about a significant number of people living with the diagnosis of lung cancer.

CDC proposes to conduct formative research to improve understanding of the challenges and needs of individuals living with lung cancer. Because smoking is one of the primary risk factors for lung cancer, the research will include respondents with different types of smoking history in order to explore the influence of smoking status on individual experience with cancer diagnosis, stigma and discrimination, and counseling and support services. For example, individuals who have never smoked may face challenges in obtaining an initial diagnosis of lung cancer, while current or former smokers may feel subject to judgments or blame from others, including medical providers as well as family and friends.

Information will be collected during in-depth interviews (IDIs) with 27 respondents between the ages of 30 and 80 who have been diagnosed with lung cancer. Three different types of respondents will be recruited from partnering clinical practices in two U.S. cities: Individuals who are Smokers (9), individuals who are Former Smokers (9), and individuals who Never Smoked (9). Each telephone interview will last approximately one hour.

The results of this exploratory research project will inform future research activities and the development of health-related information and services for the benefit of individuals living with lung cancer. Project goals support the goals for cancer and communication described in Healthy People 2010.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
People Living with Lung Cancer	Contact Form	108	1	5/60	9
	Screening Form	81	1	10/60	14
	In-depth Interview Guide	27	1	1	27
Total					50

Marilyn S. Radke,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–17767 Filed 8–1–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–08–07BF]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS-D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Formative Research on Lung Cancer Screening—New—Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Currently, there is scientific debate about the value of lung cancer screening. For people in whom lung cancer is found and treated at an early, localized stage, the five-year survival rate is roughly 49%. However, only 16% of people with lung cancer are diagnosed at this early, localized stage. Screening for lung cancer using chest x-rays (CXR) was widely practiced, but studies have shown that CXR with or without sputum cytology does not reduce mortality from lung cancer. Studies are currently underway to provide more information about the effectiveness of other types of screening tests, such as computed tomography (CT) scans and spiral CT scans.

The purpose of this project is to conduct formative research to gather information from adult health care consumers and primary care physicians about experiences and practices related to lung cancer screening and testing as

well as their knowledge, attitudes, and behaviors related to preventive cancer screenings. Of particular interest are adults of various races and ethnicities who are at high risk for lung cancer (i.e., long-term heavy smokers).

The proposed project will use focus groups to gather information about the target audiences' experiences and practices related to lung cancer screening and testing. If warranted from focus group data with adult consumers, follow-up personal interviews will be conducted with selected focus group participants, especially those reporting experience with screening tests, such as spiral computed tomography (CT).

A total of 16 focus groups will be conducted at professional focus group facilities with long-term heavy smokers ages 40–70. The data will be collected from a convenience sample of adults who will be screened and recruited using lists maintained by the focus group facilities. Each focus group will include approximately nine participants and last two hours. If warranted, additional in-depth interviews will be conducted with up to 16 focus group participants.

Eight telephone focus groups will be conducted with a random sample of primary care physicians recruited from the American Medical Association Physician Masterfile list. Potential physician respondents will be mailed a screening packet to complete and return. Each focus group of physicians will include approximately six participants and last 75 minutes. Two alternates will be recruited for each physician focus group in order to ensure participation of the targeted number of respondents.

Information will be collected over the two-year project period. There are no costs to respondents except their time. The total estimated annualized burden hours are 198.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Health Care Consumers	Health Care Consumer Screener Form	144	1	2/60	5
	Moderator's Guide for Health Care Consumer Focus Groups.	72	1	2	144
	Guide for In-Depth Interviews with Health Care Consumers.	8	1	1	8
Physicians	Physician Response Form	64	1	5/60	5
	Moderator's Guide for Physician Focus Groups.	24	1	1.5	36
Total					198

Marilyn S. Radke,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–17772 Filed 8–1–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-80–08BL]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Rapid HIV Testing in Community Mental Health Settings Serving African Americans—New—National Center for HIV, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

People with chronic mental illness, including those with substance use disorders, are at increased risk of HIV compared with the general population. However, not enough is known about the risk behaviors, willingness to be tested for HIV and HIV prevalence among persons with chronic mental illness. In addition, the interrelations among diagnosis of HIV infection, compliance with medical care, subsequent risk behaviors, and the course of mental illness have not been well-described. Mental health clinics are an important setting for HIV rapid testing and promoting prevention efforts against the transmission of HIV infection.

The objectives of this project are to (1) demonstrate improved access to HIV testing and linkage to care in participating mental health care settings; and (2) describe the relationship between mental illness, HIV risk behaviors, and access to testing and services, in order to inform the development of optimal prevention interventions for persons with severe mental illness. Staff at selected implementation sites will offer testing for HIV to clients and administer a brief survey to assess risk behaviors, previous access to similar testing services, and mental health symptoms.

CDC is requesting approval for a 2-year clearance for data collection. Data

will be collected in 6 community mental health sites. This project will collect data from clients using a brief survey administered on a voluntary basis. Collection of data will provide information on client demographics; current behaviors that may facilitate HIV transmission, including sexual and drug-use behaviors; current psychiatric symptoms, determined using brief rating scales; access and barriers to HIV testing, prevention, and treatment services; and adherence to psychiatric and medical treatment regimens.

CDC estimates the response rate will be approximately 90%. Of the 644 persons approached who agree to be surveyed, it is estimated that 95% of persons will meet the eligibility criteria and 98% will be able to provide informed consent. Therefore, the goal will be to approach 716 persons annually for participation in the study. The structured interview will take approximately 20 minutes to complete. Participation is voluntary. Data collection will provide important insights into the relationship between HIV/STI risk behaviors and psychiatric illness.

There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden hours
Approached Individual	Eligibility Screener	644	1	1/60	11
Eligible participant	Consent Questionnaire	612	1	10/60	102
Consented participant	Core Questionnaire	600	1	20/60	200
Total					313

Marilyn S. Radke,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–17775 Filed 8–1–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Public Comment on Tribal Consultation Session To Be Held on September 11, 2008, in Phoenix, AZ

AGENCY: Office of Head Start (OHS).

ACTION: Notice of Public Comment on Tribal Consultation Session to be held on September 11, 2008, in Phoenix, Arizona.

SUMMARY: Pursuant to the Improving Head Start for School Readiness Act of 2007, Public Law 110–134, notice is hereby given of a one-day Tribal Consultation Session to be held between the Department of Health and Human Services, Administration for Children and Families, Office of Head Start leadership and the leadership of Tribal governments operating Head Start (including Early Head Start) programs. The purpose of the Consultation Session is to discuss ways to better meet the needs of Indian, including Alaska Native, children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations [42 U.S.C. 9835, Section 640(l)(4)].

Date & Location: The Consultation Session will be held on September 11, 2008, at the Hyatt Regency Phoenix in Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Renée Perthuis, Acting Regional Program Manager, American Indian/Alaska Native Program Branch, Office of Head Start, e-mail *reneeaian@acf.hhs.gov* or (202) 260–1721. Register to attend the Consultation Session online at *www.hsnrc.org.*

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services would like to invite leaders of Tribal governments operating Head Start (including Early Head Start) programs to participate in a formal Consultation Session with OHS leadership. The Consultation Session will take place on Thursday, September 11, 2008, at the Hyatt Regency Phoenix in Phoenix, Arizona.

The purpose of the Consultation Session is to solicit input on ways to better meet the needs of Indian, including Alaska Native, children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations. Specific topics will include policy, research, Head Start/Early Head Start conversion, program quality, and monitoring.

Tribal leaders and designated representatives interested in submitting written testimony or topics for the Consultation Session agenda should contact Renée Perthuis at *reneeaian@acf.hhs.gov.* The proposal agenda topics should include a brief description of the topic area along with the name and contact information of the suggested presenter.

The Consultation Session will be conducted with elected or appointed leaders of Tribal governments and their designated representatives [42 U.S.C. 9835, Section 640(l)(4)(A)]. Representatives from Tribal organizations and Native non-profit organizations are welcome to attend as observers. Those wishing to participate in the discussions must have a copy of a letter signed by an elected or appointed official or their designee, which authorizes them to serve as a representative of the Tribe. This should be submitted not less than three days in advance of the Consultation Session to Renée Perthuis at 202–205–9721 (fax).

A detailed report of the Consultation Session will be prepared and made available within 90 days of the consultation to all Tribal governments receiving funds for Head Start (including Early Head Start) programs.

Dated: July 29, 2008.

Patricia Brown,

Acting Director, Office of Head Start.

[FR Doc. E8–17774 Filed 8–1–08; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0387]

Draft Guidance for Industry on Labeling OTC Skin Protectant Drug Products; Availability

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 ''Labeling OTC Skin Protectant Drug Products.'' This guidance provides recommendations on how to label over-the-counter (OTC) skin protectant drug products. An OTC skin protectant active ingredient can be combined with another OTC skin protectant active ingredient or OTC external analgesic, first aid antiseptic, or sunscreen active ingredients. Each of these combinations has specific labeling requirements, and therefore labeling of OTC skin protectant drug products is complex. This guidance is designed to clarify the permitted combinations of active ingredients along with the corresponding required labeling.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by October 3, 2008.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. 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.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Michael L. Koenig, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 5424, Silver Spring, MD 20993–0002, 301–796–2090.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Labeling OTC Skin Protectant Drug Products.'' In the **Federal Register** of June 4, 2003 (68 FR 33362), FDA published a final rule establishing conditions under which OTC skin protectant drug products are generally recognized as safe and effective and not misbranded. In developing this final rule, FDA acknowledged the complex task that manufacturers of these products would face in meeting all the pertinent labeling requirements. This draft guidance provides recommendations on how to meet current labeling requirements according to OTC skin protectant active ingredient.

Because OTC skin protectant active ingredients can be combined with active ingredients from other OTC drug product categories, this draft guidance is based upon the following rulemakings: (1) Final rule for OTC skin protectant drug products (68 FR 33362, June 4, 2003); (2) final rule for format and content of labeling of OTC drugs (64 FR 13254, March 17, 1999); (3) proposed rule for OTC sunscreen drug products (72 FR 49070, August 27, 2007); (4) proposed rule for OTC external analgesic drug products (48 FR 5852, February 8, 1983); and (5) proposed rule for OTC first aid antiseptic drug products (56 FR 33644, July 22, 1991).

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 labeling OTC skin protectant drug products. 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.

II. 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 numbers 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.

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA through FDMS only.

III. 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.regulations.gov*.

Dated: July 28, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–17835 Filed 8–1–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review: Comment Request; Revision of OMB No. 0925–0002/exp. 10/31/08, Individual Ruth L. Kirschstein National Research Service Award Applications and Related Forms

SUMMARY: In compliance with the requirement of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director (OD), Office of Extramural Research (OER), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 12, 2008, Volume 73, No. 49, page 13242 and allowed 60 days for public comment. No public 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: Individual Ruth L. Kirschstein National Research Service Award Applications and Related Forms; *Type of Information Collection Request:* Revision, OMB 0925–0002, Expiration Date 10/31/08. Form Numbers: PHS 416–1, 416–9, 416–5, 416–7, 6031, 6031–1.

Need and Use of Information Collection: The 416–1 and 416–9 are used by individuals to apply for direct research training support. Awards are made to individual applicants for specified training proposals in biomedical and behavioral research, selected as a result of a national competition. The other related forms (PHS 416–5, 416–7, 6031, 6031–1) are used by these individuals to activate, terminate, and provide for payback of a National Research Service Award.

Frequency of response: Applicants may submit applications for published receipt dates. If awarded, annual progress is reported and trainees may be appointed or reappointed. *Affected Public:* Individuals or Households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government. *Type of Respondents:* Adult scientific trainees and professionals. The annual reporting burden is as follows: *Estimated Number of Respondents:* 34,454; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 4.1; and *Estimated Total Annual Burden Hours Requested:* 142,301. The annualized cost to respondents is estimated at: $4,980,535.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including 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 sent via e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, 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. Mikia Currie, Project Clearance Branch, Office of Policy for Extramural Research Administration, NIH, Rockledge 1 Building, Suite 350, 6705 Rockledge Drive, Bethesda, MD 20892–7974, or call non-toll-free number (301) 435–0941, or e-mail your request, including your address to: *curriem@od.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: July 24, 2008.

Pam Gilden,

Division of Grants Policy, Office of Policy for Extramural Research Administration, Office of Extramural Research, National Institutes of Health.

[FR Doc. E8–17727 Filed 8–1–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION:

Antibodies and Antisera Recognizing Members of the ArfGap Family of Proteins

Description of Technology

The technology involves antibodies and antisera that recognize members of the ArfGap protein family, including the following proteins:

- ACAP1, which is related to ASAP1, a putative oncogene that regulates cancer cell invasion into normal tissues. ACAP1 regulates integrins, which are critical for cell movement associated with cancer cell invasion and is a target of the oncogene Akt.
- ACAP2, which is related to ASAP1, a putative oncogene that regulates cancer cell invasion into normal tissues.
- AGAP2 (also known as PIKE–A), ASAP1 (also called AMAP1 and DDEFl), and ASAP3 all exhibit elevated expression levels in cancer cells compared to non-transformed cells and as putative oncogenes have been implicated as regulators of cancer cell invasion into normal tissues and contributors to brain, eye and breast, and liver cancers, respectively.
- ARAP1 (also called Centaurin Delta 2), which has been implicated as a regulator of epidermal growth factor receptor, which plays important roles in several malignancies.
- ARAP2 (also called Centaurin Delta 1), GIT1 and GIT2; all three of which have been implicated as regulators of cell migration required for cancer cell invasion into normal tissues and metastasis.
- ARAP3, a target of the Src oncogene, has been implicated as a regulator of cell movement and signaling.
- ArfGAP1, which is critical to cell function, including protein trafficking.
- ASAP2 (also known as PAG3 or as Pap in the 1999 Molecular and Cellular Biology publication), is highly related to ASAP1, which has been implicated as a regulator of cancer cell invasion into normal tissues.

The table below summarizes the antibodies and antisera available against different ArfGap proteins. Each material has been raised or generated to the peptide sequence listed.

ANTIBODIES AND ANTISERA RECOGNIZING ARFGAP PROTEINS

ArfGap member	Antibody/serum ID (Alt. Name)	Antibody source	Peptide sequence (ID)	HHS Ref. No.
ACAP1	1241 (Arf6-specific GAP)	Rabbit	RPRGQPPVPPKPSIR(556)	E–244–2008/0
ACAP2	1288	Rabbit	REKGDESEKLDKKSS(365)	E–242–2008/0
AGAP2	4569, 4571	Rabbit	ERVDDPELQDSI and PLSREPPPSPMVKKQ (483)	E–222–2008/0
ARAP1	1153	Rabbit	SLIPLRGSENEMRRSV	E–220–2008/0

ANTIBODIES AND ANTISERA RECOGNIZING ARFGAP PROTEINS—Continued

ArfGap member	Antibody/serum ID (Alt. Name)	Antibody source	Peptide sequence (ID)	HHS Ref. No.
ARAP2	1185, 1187	Rabbit	RSRTLPKELQDEQILK (1689) and ANVHKTKKNDDPSKDY	E–220–2008/1
ARAP3	862, 863, 864, 865 (CENTD3/DRAG1).	Rabbit	DKDPPFPKGVIPLTAIE and EPVYEEPVYEEVGAFPE	E–220–2008/2
ArfGAP1	870	Rabbit	EWSLESSPAQNWTPPQP (123)	E–243–2008/0
ASAP1	642, 645, 551, 553	Rabbit	VELAPKPQVGELPPKPG (962), DQDRTALQKVKKSVAC, and murine protein residues 325–725; 440–724.	E–221–2008/0
ASAP1a	574	Rabbit	LSKKPPPPPPGHKRTL (837)	E–221–2008/0
ASAP1		Mouse	VELAPKPQVGELPPKPG (962)	E–252–2008/0
ASAP2	1267, 4574, 4575, 578	Rabbit	DEKLQPSPNRREDRP(706) and human protein fragment of the PH, Arf GAP and Ankyrin repeat domains.	E–221–2008/1
ASAP3	Anti-ASAP3 (DDEFL1/UPLC1/ACAP4).	Rabbit	WVISTEPGSDSEEDEEKR	E–221–2008/2
GIT1		Rabbit	LRQPPGPVPTPPLPSER and RKTVPPEPGAPVDF	E–245–2008/0
GIT2		Rabbit	RSSEVCADCSGPDPS and KVNNNLSDELRIMQKK	E–245–2008/1

Applications

• Immunoblotting and other procedures to identify the ArfGap proteins in cells and tissues;

• Identifying tumors, such as those found in brain, breast, eye and liver cancers, based on protein expression levels;

• Examining the invasive behavior of tumor cells.

Development Status

The antibodies and antisera have been raised or generated to the particular peptide sequence given in the table above. These are available as Research Tools.

Inventors

Paul A. Randazzo *et al.* (NCI).

Relevant Publications

These antibodies and antisera are further described in the following research articles:

1. Andreev J, Simon JP, Sabatini DD, Kam J, Plowman G, Randazzo PA, Schlessinger J. Identification of a new Pyk2 target protein with Arf-GAP activity. Mol Cell Biol. 1999 Mar;19(3):2338–2350.
2. Bharti S, Inoue H, Bharti K, Hirsch DS, Nie Z, Yoon HY, Artym V, Yamada KM, Mueller SC, Barr VA, Randazzo PA. Src-dependent phosphorylation of ASAP1 regulates podosomes. Mol Cell Biol. 2007 Dec;27(23):8271–8283.
3. Dai J, Li J, Bos E, Porcionatto M, Premont RT, Bourgoin S, Peters PJ, Hsu VW. ACAP1 promotes endocytic recycling by recognizing recycling sorting signals. Dev Cell. 2004 Nov;7(5):771–776.
4. Ha VL *et al.* ASAP3 is a focal adhesion-associated Arf GAP that functions in cell migration and invasion. J Biol Chem. 2008 May 30;283(22):14915–14926.
5. I ST, Nie Z, Stewart A, Najdovska M, Hall NE, He H, Randazzo PA, Lock P. ARAP3 is transiently tyrosine phosphorylated in cells attaching to fibronectin and inhibits cell spreading in a RhoGAP-dependent manner. J Cell Sci. 2004 Dec 1;117(Pt 25):6071–6084.
6. Inoue H and Randazzo PA. Arf GAPs and their interacting proteins. Traffic 2007 Nov;8(11):1465–1475.
7. Li J, Ballif BA, Powelka AM, Dai J, Gygi SP, Hsu VW. Phosphorylation of ACAP1 by Akt regulates the stimulation-dependent recycling of integrin beta1 to control cell migration. Dev Cell. 2005 Nov;9(5):663–673.
8. Miura K, Jacques KM, Stauffer S, Kubosaki A, Zhu K, Hirsch DS, Resau J, Zheng Y, Randazzo PA. ARAP1: a point of convergence for Arf and Rho signaling. Mol Cell 2002 Jan;9(1):109–119.
9. Nie Z, Fei J, Premont RT, Randazzo PA. The Arf GAPs AGAP1 and AGAP2 distinguish between the adaptor protein complexes AP–1 and AP–3. J Cell Sci. 2005 Aug 1;118(Pt 15):3555–3566.
10. Randazzo PA, Andrade J, Miura K, Brown MT, Long YQ, Stauffer S, Roller P, Cooper JA. The Arf GTPase-activating protein ASAP1 regulates the actin cytoskeleton. Proc Natl Acad Sci USA. 2000 Apr 11;97(8):4011–4016.
11. Liu W, Duden R, Phair RD, Lippincott-Schwartz J. ArfGAP1 dynamics and its role in COPI coat assembly on Golgi membranes of living cells. J. Cell Biol. 2005 Mar 28;168(7):1053–1063.
12. Yoon MY, Miura K, Cuthbert EJ, Davis KK, Ahvazi B, Casanova JE, Randazzo PA. ARAP2 effects on the actin cytoskeleton are dependent on Arf6-specific GTPase-activating-protein activity and binding to RhoA–GTP. J Cell Sci. 2006 Nov 15;119(Pt 22):4650–4666.

Patent Status

Patent protection is not being pursued for this technology.

• HHS Reference No. E–220–2008/0—Research Tool.

• HHS Reference No. E–220–2008/1—Research Tool.

• HHS Reference No. E–220–2008/2—Research Tool.

• HHS Reference No. E–221–2008/0—Research Tool.

• HHS Reference No. E–221–2008/1—Research Tool.

• HHS Reference No. E–221–2008/2—Research Tool.

• HHS Reference No. E–222–2008/0—Research Tool.

• HHS Reference No. E–242–2008/0—Research Tool.

• HHS Reference No. E–243–2008/0—Research Tool.

• HHS Reference No. E–244–2008/0—Research Tool.

• HHS Reference No. E–245–2008/0—Research Tool.

• HHS Reference No. E–245–2008/1—Research Tool.

• HHS Reference No. E–252–2008/0—Research Tool.

Licensing Status

Available for non-exclusive biological materials licensing only.

Licensing Contact

Surekha Vathyam, Ph.D.; 301–435–4076; *vathyams@mail.nih.gov*.

Dated: July 28, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–17812 Filed 8–1–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of Human Therapeutics for the Treatment of Depression

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in U.S. Patent Application 11/137,114 entitled ''Scopolamine For The Treatment Of Depression And Anxiety'' [HHS Ref. E–175–2004/0–US–01], PCT Application PCT/US2006/019335 [HHS Ref. E–175–2004/0–PCT–02] and all continuing applications and foreign counterparts (Europe, Australia and Canada), to Transcept Pharmaceuticals, Inc., which has offices in Pt. Richmond, CA. The patent rights in these inventions have been assigned to and/or exclusively licensed to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to:

A worldwide exclusive license for the use of scopolamine for treatment of depression, including major depressive disorders (MDD), wherein the administration of scopolamine is intravenous, through the buccal membrane, intranasal, intramuscular or through a skin patch.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before October 3, 2008, will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: David A. Lambertson, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4632; Facsimile: (301) 402–0220; E-mail: *lambertsond@od.nih.gov*.

SUPPLEMENTARY INFORMATION: The invention concerns the use of scopolamine for the treatment of depression, including major depressive disorders (MDD). Although scopolamine has been employed in the treatment of nausea and motion sickness, the suitability of scopolamine for treating MDD was unrecognized prior to this invention. Current MDD treatments can be ineffective in large percentage of patients and typically do not take effect until 4 weeks after administration. In contrast, treatment with scopolamine has a wide-ranging and rapid effect, suggesting it can be effective either as a stand alone treatment or as a treatment for patients who are unresponsive to currently available drugs.

A Cooperative Research and Development Agreement (CRADA) is simultaneously being negotiated to accompany the exclusive license agreement. The CRADA will involve the further development of the licensed technology between the National Institute of Mental Health and Transcept.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the 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 part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Applicants may also contact the National Institute of Mental Health regarding the CRADA opportunity. Comments and objections submitted 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: July 29, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–17817 Filed 8–1–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0521]

National Preparedness for Response Exercise Program

AGENCY: Coast Guard, DHS.

ACTION: Notice; request for public comment.

SUMMARY: The Coast Guard, the Pipeline and Hazardous Materials Safety Administration, the Environmental Protection Agency, and the Minerals Management Service, in concert with representatives from various State governments, industry, environmental interest groups, and the general public, developed the National Preparedness for Response Exercise Program (PREP) Guidelines to reflect the consensus agreement of the entire oil spill response community. This notice announces the PREP 5-year exercise cycle, 2009 through 2013, and requests comments from the public, and requests volunteers from industry to participate in the scheduled PREP Area exercises. The new schedule adjustment from 3 years to 5 years was created to align with the Department of Homeland Security's National Exercise 5-year Schedule.

DATES: Comments and related material must reach the Docket Management Facility on or before October 3, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0521 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov*.

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, or need general information regarding the PREP or the 5-year exercise schedule, contact Lieutenant Shawn Essert, Office of Contingency Exercises (CG–535), U.S. Coast Guard, telephone 202–372–2149, or e-mail *shawn.g.essert@uscg.mil*. If

you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION

Public Participation and Request for Comments

We encourage you to respond to this notice by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you provide. We have an agreement with the Department of Transportation to use their Docket Management Facility.

Submitting Comments

If you submit a comment, please include the docket number for this notice (USCG–2008–0521), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this 5-year exercise schedule, as well as other elements of the PREP, in light of your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time. Enter the docket number for this notice (USCG–2008–0521) in the Search box, and click ''Go>>.'' If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can 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 a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Background and Purpose

In 1994, the United States Coast Guard (USCG), the Research and Special Programs Administration (RSPA) of the Department of Transportation, the U.S. Environmental Protection Agency (EPA), and the Minerals Management Service (MMS) of the Department of the Interior, coordinated the development of the National Preparedness for Response Exercise Program (PREP) Guidelines to ensure compliance with the Oil Pollution Act of 1990 (OPA 90) pollution response exercise requirements (33 U.S.C. 1321(j)). The guiding principles of PREP distinguish between internal and external exercises. Internal exercises are conducted within the planholder's organization. External exercises extend beyond the planholder's organization to involve other members of the response community. External exercises are separated into two categories: Area exercises, and Government-initiated, unannounced exercises. External exercises are designed to evaluate the entire pollution response mechanism in a given geographic Area to ensure adequate response preparedness.

Area exercises involve the entire response community including Federal, State, local, tribal, and non-government organizations, and industry participants; therefore, these Area exercises require more extensive planning than other oil spill response exercises. The PREP Guidelines describe all of these exercises in more detail.

A National Schedule Coordination Committee (NSCC) was established for scheduling Area exercises. The NSCC is comprised of personnel representing the four Federal regulating agencies—the USCG, EPA, MMS, and the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Pipeline Safety (OPS). Since 1994, the NSCC published a triennial schedule of Area exercises. Starting in 2008, NSCC will publish a schedule of Area exercises every 5 years.

Source for PREP Documents

The PREP Area exercise schedule and exercise design manuals are available on the Internet at *http://homeport.uscg.mil/exercises.* To obtain a hard copy of the exercise design manual, contact Ms. Melanie Barber at PHMSA, Office of Pipeline Safety at 202–366–4560.

PREP Schedule

This notice announces the next 5-year schedule of the Area exercises. The PREP schedule for calendar years 2009 through 2013 for Government-led and Industry-led Area exercises is available on the Internet in the docket for this notice at *http://www.regulations.gov* and at *http://homeport.uscg.mil/exercises* under Port Level Exercises. Any revisions to the schedule will appear on the *http://homeport.uscg.mil* Web site. We have include a table listing the dates and **Federal Register** cites of past PREP exercise notices in our online docket for those who wish to compare this 2009–2013 schedule with past schedules.

If a company wants to volunteer for an Area exercise, a company representative may call either the Coast Guard or EPA on-scene coordinator for times and locations. If you have concerns or recommended improvements to the Government-led PREP exercises, please submit those using the procedures described under the **ADDRESSES** section of this notice.

Dated: July 24, 2008.

Joseph R. Castillo,

Rear Admiral, U.S. Coast Guard, Director of Response Policy.

[FR Doc. E8–17755 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: Critical Facility Information of the Top 100 Most Critical Pipelines

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of

information on April 16, 2008, 73 FR 20700. This collection provides TSA critical facility and annual product through-put information from owners/operators of the nation's largest pipelines, and is necessitated by the requirements set forth in the Implementing the Recommendations of the 9/11 Commission Act of 2007.

DATES: Send your comments by September 3, 2008. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3651; facsimile (703) 603–0822.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Critical Facility Information of the Top 100 Most Critical Pipelines.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): NA.

Affected Public: Pipeline Companies.

Abstract: Sec. 1557(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266, 475, 08/03/2007) (9/11 Act), specifically tasks TSA to develop and implement a plan for inspecting critical facilities at the 100 most critical pipeline systems. To meet the 9/11 Act's requirement, TSA will request a report of annual product through-put and a listing of critical facilities from the top 125 pipeline systems in terms of annual through-put, as reported in pipeline trade journals and other sources.

TSA uses system annual through-put as a primary factor in determining pipeline system criticality. This figure is based on the amount of hazardous liquid or natural gas product transported through a pipeline in one year (*i.e.*, annual through-put). TSA will request the information from the top 125 pipeline systems in terms of annual through-put, and out of these, TSA will make a determination of the top 100 most critical pipeline systems. The request for information will be transmitted by TSA via e-mail to the 125 respondents. TSA will ask the respondents to provide the information to TSA via e-mail. To the extent the information transmitted is Sensitive Security Information; TSA will safeguard the information in accordance with 49 CFR parts 15 and 1520. TSA will use the information to develop and implement a plan for inspecting critical facilities at the 100 most critical pipeline systems.

Number of Respondents: 125.

Estimated Annual Burden Hours: An estimated 500 hours annually.

Issued in Arlington, Virginia, on July 29, 2008.

Kriste Jordan,

Program Manager, Business Improvements and Communications, Office of Information Technology.

[FR Doc. E8–17720 Filed 8–1–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–49]

Notice of Proposed Information Collection: Comment Request; Customer Satisfaction Surveys

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Executive Order 12862, ''Setting Customer Service Standards ''requires that Federal agencies provide the highest quality service to our customers by identifying them and determining what they think about our services. The surveys covered in the request for a generic clearance will provide HUD a means to gather this data directly from our customers. HUD will conduct various customer satisfaction surveys to gather feedback and data directly from our customers to determine the kind and quality of services and products they want and expect to receive.

DATES: *Comments due:* October 3, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number (2535–0116) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian L. Deitzer, Departmental Reports Management Officer, QDAM, Department or Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410; telephone: 202–708–2374, (this is not a toll-free number) or e-mail Ms. Deitzer at *Lillian_L._Deitzer@HUD.gov* for a copy of the proposed form and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also Lists the Following Information

Title of Proposal: Customer Satisfaction Surveys.

OMB Control Number, if applicable: 2535–0116.

Description of the need for the information and proposed use: Executive Order 12862, ''Setting Customer Service Standards'' requires that Federal agencies provide the highest quality service to our customers by identifying them and determining what they think about our services. The surveys covered in the request for a generic clearance will provide HUD a means to gather this data directly from our customers. HUD will conduct various customer satisfaction surveys to gather feedback and data directly from our customers to determine the kind and quality of services and products they want and expect to receive.

Agency form numbers, if applicable: None.

Members of Affected Public: Individuals or Households, Business or Other for-Profit, Not-for-Profit Institutions, State, Local or Tribal.

Frequency of Submission: On occasion.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden:	1	1		1		1

Total Estimated Burden Hours: 1.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 29, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–17811 Filed 8–1–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5202–N–02]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under section 221(g)(4) of the Act during the 6-month period beginning July 1, 2008, is 3⅞ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning July 1, 2008, is 4⅝ percent. However, as a result of an amendment to section 224 of the Act, if an insurance claim relating to a mortgage insured under sections 203 or 234 of the Act and endorsed for insurance after January 23, 2004, is paid in cash, the debenture interest rate for purposes of calculating a claim shall be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years.

FOR FURTHER INFORMATION CONTACT: Yong Sun, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5148, Washington, DC 20410–8000; telephone 202–402–4778 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (12 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning July 1, 2008, is 4⅝ percent; and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 4⅝ percent for the 6-month period beginning July 1, 2008. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with insurance commitment or endorsement date (as applicable) within the latter 6 months of 2008.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6⅜	Jan. 1, 1998	July 1, 1998.
6⅛	July 1, 1998	Jan. 1, 1999.
5½	Jan. 1, 1999	July 1, 1999.
6⅛	July 1, 1999	Jan. 1, 2000.
6½	Jan. 1, 2000	July 1, 2000.
6½	July 1, 2000	Jan. 1, 2001.
6	Jan. 1, 2001	July 1, 2001.
5⅞	July 1, 2001	Jan. 1, 2002.
5¼	Jan. 1, 2002	July 1, 2002.
5¾	July 1, 2002	Jan. 1, 2003.
5	Jan. 1, 2003	July 1, 2003.
4½	July 1, 2003	Jan. 1, 2004.
5⅛	Jan. 1, 2004	July 1, 2004.
5½	July 1, 2004	Jan. 1, 2005.
4⅞	Jan. 1, 2005	July 1, 2005.
4½	July 1, 2005	Jan. 1, 2006.
4⅞	Jan. 1, 2006	July 1, 2006.
5⅜	July 1, 2006	Jan. 1, 2007.
4¾	Jan. 1, 2007	July 1, 2007.
5	July 1, 2007	Jan. 1, 2008.
4½	Jan. 1, 2008	July 1, 2008.
4⅝	July 1, 2008	Jan. 1, 2009.

Section 215 of Division G, Title II of Pub. L. 108–199, enacted January 23, 2004 (HUD's 2004 Appropriations Act) amended section 224 of the Act, to change the debenture interest rate for purposes of calculating certain insurance claim payments made in cash. Therefore, for all claims paid in cash on mortgages insured under section 203 or 234 of the National Housing Act and endorsed for insurance after January 23, 2004, the debenture interest rate will be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years, as found in Federal Reserve Statistical Release H–15. The Federal Housing Administration has codified this provision in HUD regulations at 24 CFR 203.405(b) and 24 CFR 203.479(b).

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the ''going Federal rate'' in effect at the time the debentures are issued. The term ''going Federal rate'' is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the 6-month periods of

January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.255 and 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the 6-month period beginning July 1, 2008, is 3⅞ percent.

The subject matter of this notice falls within the categorical exemption from HUD's environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no environmental finding has been prepared for this notice.

Authority: Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: July 25, 2008.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E8–17742 Filed 8–1–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commission

Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, September 18, 2008.

The Commission was established pursuant to Pub. L. 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene on September 18, 2008 at 9 a.m. at Banneker Industries, located at 582 Great Road, North Smithfield, RI for the following reasons:

1. Approval of Minutes
2. Chairman's Report
3. Executive Director's Report
4. Financial Budget
5. Public Input

It is anticipated that about thirty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Jan H. Reitsma, Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250.

Further information concerning this meeting may be obtained from Jan H. Reitsma, Executive Director of the Commission at the aforementioned address.

Jan H. Reitsma,

Executive Director, BRVNHCC.

[FR Doc. E8–17789 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Reestablishment of the Lake Champlain Sea Lamprey Control Alternatives Workgroup

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Reestablishment.

SUMMARY: The Secretary of the Interior (Secretary), after consultation with the General Services Administration, has reestablished the Lake Champlain Sea Lamprey Control Alternatives Workgroup (Workgroup) for 2 years. The Workgroup provides an opportunity for stakeholders to give policy and technical input on efforts to develop and implement sea lamprey control techniques alternative to lampricides in Lake Champlain.

DATES: The Council's charter will be filed under the Federal Advisory Committee Act August 19, 2008.

FOR FURTHER INFORMATION CONTACT: Dave Tilton, Fish and Wildlife Service, Lake Champlain Fish and Wildlife Resources Complex, 11 Lincoln Street, Essex Junction, VT 05452, 802–872–0629, extension 12.

SUPPLEMENTARY INFORMATION: The Workgroup conducts its operations in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix). It reports to the Secretary through the Fish and Wildlife Service (Service) and Lake Champlain Fish and Wildlife Management Cooperative (Cooperative) and functions solely as an advisory body. The Workgroup provides recommendations and advice to the Cooperative. Specific responsibilities of the Workgroup are to provide recommendations on: (1) Feasible and appropriate sea lamprey management methods alternative to lampricides; (2) funding priorities for research and/or demonstration projects; (3) facilitating coordinated research between Lake Champlain and the Great Lakes; and (4) development of requests for proposals, project proposals, and research efforts affecting the Lake Champlain Basin.

The Workgroup consists of up to 20 members representing Federal and State agencies and stakeholders. In addition, up to five of the members may be special Government employees, selected for their scientific expertise. All members are knowledgeable about Lake Champlain fishery management issues, including sea lamprey control.

The Certification for reestablishment is published below.

Certification

I hereby certify that the Lake Champlain Sea Lamprey Control Alternatives Workgroup (Workgroup) is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior through the Supplemental Environmental Impact Statement for a Long-term Program of Sea Lamprey Control in Lake Champlain as published in 2001 (66 FR 46651, September 6, 2001).

Dated: July 24, 2008.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E8–17737 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–N0114; 80221–1113–0000–C2]

Draft Revised Recovery Plan for Mojave Population of the Desert Tortoise (Gopherus agassizii)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, U.S. Fish and Wildlife Service (Service), announce the availability of a draft revised recovery plan for the Mojave population of the desert tortoise for public review and comment.

DATES: We must receive any comments on the draft recovery plan on or before November 3, 2008.

ADDRESSES: The draft recovery plan and reference materials are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340

Financial Boulevard, Suite 234, Reno, NV 89502 (telephone: 775–861–6300). Submitted comments regarding the draft revised recovery plan will also be available for public inspection, by appointment, during normal business hours following the public review and comment period. Requests for copies of the draft revised recovery plan and submission of written comments or materials regarding the plan should be addressed to the Field Supervisor at the above address. You may also submit electronic comments on the recovery plan to: *DTrecovery@fws.gov*. An electronic copy of the draft recovery plan is available at: *http://endangered.fws.gov/recovery/index.html#plans*.

FOR FURTHER INFORMATION CONTACT: Roy Averill-Murray, Desert Tortoise Recovery Coordinator, at the above address or telephone number.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) and our endangered species program. Recovery means improvement of the status of listed species to the point at which listing is no longer required under the criteria set out in section 4(a)(1) of the Act. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery. The Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus agassizii*) was first published in 1994 wherein the status of the species, threats, recovery actions and recovery criteria were presented. Since that time a great deal of effort has been dedicated to recovery and conservation activities, and additional information has been obtained through research and observation that allows us to better focus our recovery strategy. The revised recovery plan for the Mojave Population of the desert tortoise is the focus of this notice.

Section 4(f) of the Act directs the Secretaries of Interior and Commerce to develop and implement recovery plans for species listed as endangered or threatened, unless such plans will not promote the conservation of the species. We and the National Marine Fisheries Service, as appropriate, have been delegated responsibility for administering the Act. Section 4(f) of the Act requires that public notice, and an opportunity for public review and comment, be provided during development of recovery plans. We will consider all information presented during the public comment period on each new or revised recovery plan. Substantive comments may or may not result in changes to a recovery plan. However, any substantive comments regarding recovery plan implementation will be forwarded to appropriate Federal agencies or other interested entities so that they can take these comments into account during the implementation of their respective management programs. Individual responses to submitted comments will not be provided.

The desert tortoise is a large, herbivorous reptile that can reach 20 to 38 centimeters (cm) (8 to 15 inches (in)) in carapace length and 10 to 15 cm (4 to 6 in) in shell height. Hatchlings emerge from eggs at about 5 cm (2 in) in length. Adults have a domed carapace and relatively flat, unhinged plastrons (lower shells). Their shells are high-domed and greenish-tan to dark brown in color with tan scute (horny plate on the shell) centers. Adult desert tortoises weigh 3.6 to 6.8 kilograms (8 to 15 pounds). The forelimbs have heavy, claw-like scales and are flattened for digging. Hind limbs are more elephantine.

Throughout most of the Mojave Desert, the desert tortoise occupies a variety of habitats: From flats and slopes dominated by creosote bush (*Larrea tridentata*) scrub at lower elevations, to rocky slopes in the blackbrush (*Coleogyne ramosissima*) scrub, and juniper (*Juniperus* spp.) woodland interface at higher elevations. Records of desert tortoises range from below sea level to an elevation of 2,225 meters (m) (7,300 feet (ft)), with the most favorable habitat at elevations between 305 and 914 m (1,000 and 3,000 ft). Desert tortoises most commonly occur on gently sloping terrain with sandy-gravel soils that are friable for burrowing and where there is sparse cover of low-growing shrubs and a high diversity of both perennial and annual plants.

The desert tortoise occurs in the Mojave and Sonoran deserts in southern California, southern Nevada, Arizona, and the southwestern tip of Utah in the United States, as well as in Sonora and northern Sinaloa in Mexico. The listed Mojave population of the desert tortoise includes those animals living north and west of the Colorado River in the Mojave Desert of California, Nevada, Arizona, and southwestern Utah, and in the Sonoran (Colorado) Desert in California. A recovery plan was published in 1994 and critical habitat was also designated in all four States supporting the species.

Three other tortoise species in the genus *Gopherus* occur in the United States, and another occurs in Mexico; however, all are geographically separated from the Mojave population. The Sonoran population of the desert tortoise is significantly different both genetically and ecologically, but could be confused visually with tortoises of the Mojave population; therefore, we determined the Sonoran population also warranted protection as a threatened species under section 4(e) of the Endangered Species Act (similarity of appearance) when located outside of its natural range.

The vast majority of threats to the desert tortoise or its habitat are associated with human land uses. The threats identified in the 1994 Recovery Plan, and that formed the basis for listing the tortoise as a threatened species, continue to affect the species. Habitat loss, degradation, and fragmentation from urbanization, off-highway vehicle use in the desert, linear features such as roads and utility corridors, livestock grazing and mining, and military activities were cited as some of the primary reasons for the decline in desert tortoise populations. Disease and increased incidence of fire in the Mojave Desert have also been implicated in desert tortoise declines.

The data amassed between 1979 and 2002 from permanent study plots throughout the range of the species were used to explore regional and recovery-unit-level analyses and trends, and to develop within-population spatial analyses at various scales on the landscape and in different management units. Despite the challenges in comparing data from year to year, the apparent downward trend in desert tortoise populations in the western portion of the range that was identified at the time of listing is considered ongoing. Results from other portions of the range were inconclusive, but recent surveys of some populations found too few tortoises to produce population estimates, suggesting that declines may have occurred more broadly.

Collectively, the various analyses that have been performed do not suggest that implementation of specific management actions over time has abated declines of, or resulted in detectable increases in, desert tortoise populations across most of the range. The life history of the species (i.e., delayed reproductive maturity, low reproductive rates, and relatively high mortality early in life) is such that observing relatively rapid increases in populations is highly unlikely, even over the 23-year monitoring period evaluated.

Despite the clear demonstration that the threats identified at the time of listing impact individual tortoises, there are few data available to evaluate or quantify the effects of threats on desert tortoise populations. While current research results can lead to predictions about how local tortoise abundance should be affected by the presence of threats, quantitative estimates of the magnitude of these threats, or of their relative importance, have not yet been developed.

While precise correlations between the multitude of threats and desert tortoise populations have not been clearly shown, a great deal of effort has been put forth by research scientists and land managers to actively conserve the species. Substantive datasets pertaining to disease, non-native invasive plant species, and fire have been assembled over the years that will be used to inform decisions relative to desert tortoise recovery. Conservation actions such as land acquisitions, installing protective fencing, retiring grazing allotments, limiting off-highway vehicle access, and implementing restoration projects have been important recovery and management efforts based on our current state of knowledge regarding the threats facing the species.

The revised strategy emphasizes partnerships to direct and maintain focus on implementing recovery actions and a system to track implementation and effectiveness of those actions. The strategic elements listed herein are part of a multi-faceted approach designed to improve the 1994 Recovery Plan. The goals of the revised recovery plan are recovery and delisting of the desert tortoise. The objectives and recovery criteria address demography (maintain self-sustaining populations of desert tortoises within each recovery unit into the future); distribution (maintain well-distributed populations of desert tortoises throughout each recovery unit); and habitat (ensure that habitat within each recovery unit is protected and managed to support long-term viability of desert tortoise populations. The strategic elements include the following: (1) Develop, support, and build partnerships to facilitate recovery; (2) protect existing populations and habitat, instituting habitat restoration where necessary; (3) augment depleted populations in a strategic, experimental manner; (4) monitor progress toward recovery, includes population trend and effectiveness monitoring; (5) conduct applied research and modeling in support of recovery efforts within a strategic framework; and (6) implement a formal adaptive management program that integrates new information and utilizes conceptual models that link management actions to predicted responses by desert tortoise populations or their habitat. The success of this revised recovery strategy will rely heavily upon the involvement of our partners and our commitment to implementing the strategic elements listed above coupled with a functioning adaptive management program.

Public Comments Solicited

We solicit written comments on the draft revised recovery plan described in this notice. All comments received by the date specified above will be considered in development of a final revised recovery plan for the Mojave population of the desert tortoise.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Jim A. Bartel,

Acting Regional Director, Region 8, U.S. Fish and Wildlife Service.

[FR Doc. E8–17520 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2008–N0185; 71490–1351–0000–M2]

Marine Mammal Protection Act; Stock Assessment Reports

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of final revised marine mammal stock assessment reports for three stocks of northern sea otters in Alaska; response to comments.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), the Fish and Wildlife Service (Service) has incorporated public comments into revisions of marine mammal stock assessment reports for the three stocks of northern sea otters (*Enhydra lutris kenyoni*) in Alaska. The 2008 final stock assessment reports are now complete and available to the public.

ADDRESSES: Send requests for printed copies of the final stock assessment reports to: Chief, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, AK 99503; (800) 362–5148. Copies of the final revised stock assessment reports are also available on the Internet in Adobe Acrobat format at *http://alaska.fws.gov/fisheries/mmm/seaotters/reports.htm*.

SUPPLEMENTARY INFORMATION: One of the goals of the MMPA (16 U.S.C. 1361–1407) is to ensure that stocks of marine mammals occurring in waters under the jurisdiction of the United States do not experience a level of human-caused mortality and serious injury that is likely to cause the stock to be reduced below its optimum sustainable population level (OSP). OSP is defined as '' * * * the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.''

To help accomplish the goal of maintaining marine mammal stocks at their OSPs, section 117 of the MMPA requires the Service and the National Marine Fisheries Service (NMFS) to prepare stock assessment reports for each marine mammal stock that occurs in waters under the jurisdiction of the United States. These stock assessments are to be based on the best scientific information available and are, therefore, prepared in consultation with established regional scientific review groups. Each stock assessment must include:

(1) A description of the stock and its geographic range; (2) minimum population estimate, maximum net productivity rate, and current population trend; (3) estimate of human-caused mortality and serious injury; (4) commercial fishery interactions; (5) status of the stock; and (6) potential biological removal level (PBR). The PBR is defined as '' * * * the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP.'' The PBR is the product of the minimum population estimate of the stock (N_{min}); one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size (R_{max}); and a recovery factor (F_r) of between 0.1 and 1.0, which is intended to compensate for uncertainty and unknown estimation errors.

Section 117 of the MMPA also requires the Service and the NMFS to review and revise the stock assessment reports: (a) At least annually for stocks that are specified as strategic stocks; (b) at least annually for stocks for which significant new information is available; and (c) at least once every 3 years for all other stocks.

A strategic stock is defined in the MMPA as a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the PBR; (B) which, based on the best available

scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 (ESA) within the foreseeable future; or (C) which is listed as a threatened or endangered species under the ESA, or is designated as depleted under the MMPA.

Draft 2008 stock assessment reports for the 3 Alaska stocks of northern sea otters were made available for a 90-day public review and comment period on February 6, 2008 (73 FR 6994). Prior to releasing them for pubic review and comment, the Service subjected the draft reports to internal technical review and to scientific review by the Alaska Regional Scientific Review Group established under the MMPA. Following the close of the comment period, the Service revised the stock assessments and prepared the final 2008 stock assessment reports.

We revised these final stock assessment reports based on public comments received (see below). The status of each stock remained unchanged from the draft revised SARs that were provided for public comment, and with the exception of the southwest Alaska stock, PBR levels were not changed. Estimates of fishery-related mortality and serious injury have been revised for all three stock assessment reports. We addressed responses to most of the public comments by adding new text for clarity.

A summary of the final revised stock assessment reports is presented in Table 1. The table lists each stock's N_{min}, R_{max}, F_r, PBR, annual estimated human-caused mortality and serious injury, and status.

TABLE 1—SUMMARY OF FINAL REVISED STOCK ASSESSMENT REPORTS FOR THREE U.S. NORTHERN SEA OTTER STOCKS

Stock	N_{MIN}	R_{MAX}	F_R	PBR	Serious injury	Annual 5-year estimated human-caused mortality		Stock status
						Fishery/ other	Subsist-ence	
Northern sea otters (Southeast AK).	9,136	0.20	1.0	914	0	Unknown.	322	Non-strategic
Northern sea otters (Southcentral AK).	12,774	0.20	1.0	1,277	0	Unknown.	346	Non-strategic
Northern sea otters (Southwest AK).	38,703	0.20	0.1	387	0	<10	91	Strategic

Comments and Responses

The Service received 3 comments on the drafts stock assessment reports. The issues raised in those comments and our responses are provided below.

Comment 1: The use of a recovery factor of 0.25 for the southwest Alaska stock is too high; a recovery factor of 0.1 should be used instead.

Response: The choice of recovery factors for population stocks that are declining is complex. The southwest Alaska stock is currently listed as threatened under the ESA and the current population trend is one of decline. Therefore, we agree with this comment to take a more conservative approach and have reduced the recovery factor for the southwest Alaska stock to 0.1, which lowers the PBR to 387.

Comment 2: Given that one otter was self-reported by the fisher to have been caught in a trawl fishery, the conclusion that ''estimated level of incidental motality and serious injury associated with Alaska trawl, longline, and pot groundfish fisheries is zero'' is not accurate.

Response: Available information on this self-reported incident is unclear whether the otter was caught and killed in the trawl fishery, or was a dead animal that was simply caught by the trawl. The text of the southwest Alaska stock assessment has been revised to say that the ''estimated level of incidental morality and serious injury associated with Alaska trawl, longline, and pot groundfish fisheries averages less than one animal per year.''

Comment 3: The estimate that mortality and serious injury in the Kodiak salmon set net fishery is less than one animal per year is not accurate.

Response: This section of the southwest Alaska stock assessment report has been revised to indicate that the level of mortality and serious injury rate for this fishery is likely no more than 10 animals per year.

Comment 4: Information is insufficient to conclude that fishery impacts on the southcentral and southeast Alaska stocks is insignificant and approaching a zero mortality rate.

Response: We have revised the southcentral and southeast Alaska stock assessment reports to more accurately characterize the uncertainties in the level of fishery mortality and serious injury.

Comment 5: The Service should update stock assessment reports on the schedule specified under section 117 of the MMPA.

Response: The Service will continue to review available information on an annual basis and revise stock assessment reports for the northern sea otter in Alaska as appropriate.

Comment 6: The Service should review available information on sea otter stock structure in Alaska.

Response: Information on stock structure is driven primarily by genetic analysis of tissue samples. The most recent study of this nature was conducted in 2002. Since that time, more sample material has been collected during live-capture studies in the Kodiak archipelago (southwest Alaska stock) and Kamishak Bay (southcentral Alaska stock). Additional tissue samples from other areas are required, especially Kamishak Bay and the Alaska Peninsula adjacent to Shelikof Strait, before sea otter stock structure in Alaska can be analyzed.

Comment 7: Methods used to estimate sea otter abundance are not adequately described.

Response: The methods used to estimate sea otter abundance are thoroughly described in the references used to prepare these stock assessment reports. We believe it is redundant to describe them more comprehensively in the stock assessment reports.

Comment 8: Description of fishery interactions is incomplete; the stock assessment reports should list all fisheries known to interact with sea otters.

Response: We have included the relevant fisheries from the NOAA—Fisheries ''List of Fisheries'' that had previously been incorporated by reference.

Comment 9: Stock assessment reports do not adequately consider possible interactions in fisheries that are not

observed or where observer coverage is low.

Response: The predominant type of fishing gear that has been known to interact with sea otters are salmon set and drift gillnets. Available information suggests that fisheries using other types of gear, such as trawl, longline, pot, and purse seine appear to be less likely to have interactions with sea otters due to either the areas where such fisheries operate, or the specific gear used, or both. Gillnet fisheries occur throughout the range of sea otters in Alaska; however, the nature of their potential for interaction depends on several factors including sea otter distribution and abundance relative to the distribution and effort expended in these fisheries. We believe that application of entanglement rates derived from small sample sizes in observed fisheries to unobserved fisheries in other areas would produce questionable results.

Comment 10: Stock assessment reports do not consider other impacts from oil and gas development besides oil spills.

Response: We considered disturbance from oil and gas exploration, development, and production in the draft stock assessments; however, we did not state this point explicitly in the draft stock assessment reports. We have revised the final stock assessment reports accordingly.

Comment 11: Fuel oil spills from ship traffic should be considered for the southcentral and southeast Alaska stocks.

Response: We have included additional information from the Alaska Department of Environmental Conservation spill reporting database about ship traffic and other sources that have resulted in discharges of crude and noncrude oil into the marine environment for all 3 stock assessment reports.

Comment 12: The stock assessment reports should describe the reasons for and implications of the age/sex distribution of the subsistence harvest on the demography and dynamics of sea otter populations.

Response: We believe the suggested additional in-depth analysis of the subsistence harvest is beyond the scope of these reports as it relates to determining the status of the stocks.

Comment 13: The impact of other factors, such as contaminants, should be evaluated.

Response: Available information is insufficient to quantitatively estimate the impacts of these factors.

Comment 14: Additional detail on the Unusual Mortality Event should be included in the stock assessment reports.

Response: Studies of sea otter disease, mortality, and survival are ongoing. Results are not yet available for inclusion in this stock assessment report.

Comment 15: Given the dates of the various surveys used to estimate the population size of the southwest Alaska stock, the current population may be lower than the estimated value.

Response: We acknowledge that population estimates for some of the regions within the southwest Alaska stock are somewhat dated; however, they are the best available scientific information at this time. Population monitoring for this stock is an important component of the recovery plan that is in development. As this stock is listed as threatened under the ESA, it is considered strategic under the MMPA and subject to annual review, regardless of the actual population size.

Comment 16: Apparent regional population trends in the southeast Alaska stock should be discussed in greater detail.

Response: The U.S. Geological Survey collected survey information for the southeast Alaska stock. A summary report that addresses this issue is in preparation; however, conclusions are not available at this time.

Comment 17: Information gathered from the fishing industry cannot be relied upon for truthfulness or accuracy because of their concern for profits.

Response: The Service relied on the best available scientific information in the preparation of these stock assessment reports, and readily acknowledges the limitations of these data. Although some of the information is self-reported, we also rely on fisheries observer programs when available.

Comment 18: The agency's system for observing the catch is incorrect and untruthful. Cameras on boats and fines and jail times are needed.

Response: Observer programs are conducted by the National Marine Fisheries Service of the Department of Commerce. We have forwarded these suggested improvements to them for consideration.

Comment 19: The words ''optimum sustainable population'' are opposed as the phrase promotes overutilization of the wildlife.

Response: The term ''Optimal Sustainable Population'' is defined in the Marine Mammal Protection Act (16 U.S.C. 1362).

References Not Cited in the Notice of Availability of Draft Revised SARs

Manly, B.F.J. 2006. Incidental catch and interactions of marine mammals and birds in the Cook Inlet salmon driftnet and setnet fisheries. Western EcoSystems Technology Inc. Report. Cheyenne, Wyoming, USA. 98pp.

Manly, B.F.J. 2007. Incidental take and interactions of marine mammals and birds in the Kodiak Island salmon set gillnet fishery, 2002 and 2005. Western EcoSystems Technology Inc. Report. Cheyenne, Wyoming, USA. 221pp.

Authority: The authority for this action is the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407).

Dated: July 29, 2008.

Rowan W. Gould,

Acting Director, Fish and Wildlife Service.

[FR Doc. E8–17804 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2008–N0147; 40136–1265–0000–S3]

Pocosin Lakes National Wildlife Refuge, Hyde, Tyrrell, and Washington Counties, NC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Final comprehensive conservation plan and finding of no significant impact.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for Pocosin Lakes National Wildlife Refuge. In the final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: A copy of the CCP may be obtained by writing to: Howard A. Phillips, Refuge Manager, Pocosin Lakes National Wildlife Refuge, P.O. Box 329, Columbia, NC 27925. The CCP may also be accessed and downloaded from the Service's Internet site: *http://southeast.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: Howard A. Phillips; Telephone: 252/796–3004.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Pocosin Lakes National Wildlife Refuge. We started this process through a notice in the **Federal Register** on November 3, 2000 (65 FR 66256). For more about the process, see that notice.

Congress established the 12,000-acre Pungo National Wildlife Refuge in 1963 by the authorities of the Migratory Bird Conservation Act of 1929 and the Fish

and Wildlife Act of 1956. In 1990, we established Pocosin Lakes National Wildlife Refuge, making Pungo Refuge a unit of Pocosin Lakes Refuge. The refuge now consists of 110,106 acres. We named the refuge for the pocosin habitat that dominates the landscape and for the lakes that occur within the pocosin.

We announce our decision and the availability of the final CCP and FONSI for Pocosin Lakes National Wildlife Refuge in accordance with the National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft comprehensive conservation plan and environmental assessment (Draft CCP/EA). The CCP will guide us in managing and administering Pocosin Lakes Refuge for the next 15 years.

The compatibility determinations for hunting; fishing; wildlife observation and photography; environmental education and interpretation; access for public uses; trapping of selected furbearers and feral hogs for nuisance animal management; refuge resource research studies; cooperative farming program; commercial photography; commercial tours and guiding; wood and reed gathering and cutting; and meetings of non-service agencies and organizations are all available in the CCP.

Background

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) (Improvement Act), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act.

Comments

Approximately 130 copies of the Draft CCP/EA were made available for a 30-day public review period as announced in the **Federal Register** on July 12, 2007 (72 FR 38097). Twelve agencies and/or individuals submitted comments, either in writing or at public forums. Four persons spoke at the public forums and eight presented written comments, representing state agencies, local government agencies, non-governmental organizations, businesses, and local citizens.

Selected Alternative

We developed four alternatives for management of the refuge and chose Alternative 2 as the preferred alternative. We selected Alternative 2 based on the sound professional judgment of the staff and after considering the comments we received on the draft document. The primary focus under Alternative 2 will be to optimize management of the impoundments very intensively by controlling water levels and vegetation to create optimum habitat for migrating waterfowl. Implementing the CCP will result in moderate program increases to address the refuge's highest priorities. We will manage pine forests and marshes with prescribed fire and will manage the vegetative composition of habitats in selected areas. Waterfowl will be surveyed on a routine basis. We will develop inventory plans for all species and implement them in selected habitats. We will develop and implement a black bear management plan. The visitor center will be maintained by volunteers and cooperating agency personnel supplementing refuge personnel. The volunteer program will be expanded by recruiting volunteers to contribute 4,000 hours of service. We will construct two pads for recreational vehicles in order to attract volunteers. There will be 17.5 staff members dedicated to refuge management and 7.5 staff members dedicated to fire management. The six priority public uses will be allowed, with the refuge staff conducting environmental education and interpretation programs to meet local needs.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: June 10, 2008.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E8–17766 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Activities, Submission to the Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of renewal of a currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Indian Affairs has submitted to the Office of Management and Budget a request for approval and renewal of information collections, OMB Control No. 1076–0017, Financial Assistance and Social Service Program application form 5–6601.

DATES: Written comments must be submitted on or before September 3, 2008.

ADDRESSES: Interested parties are invited to submit written comments regarding this proposal to the Desk Officer of the Department of the Interior by facsimile to (202) 395–6566. You may also send comments by e-mail to: *OIRA_DOCKET@omb.eop.gov*.

Copies of comments should refer to the proposal by name and/or OMB Control Number and should be sent to Kevin Sanders, Acting Chief, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., MS–4513–MIB, Washington, DC 20240. Telephone (202) 513–7621.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information form or requests for additional information should be directed to Kevin Sanders, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., MS–4513, Washington, DC 20240. Telephone (202) 513–7621.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Affairs needs the information collected. Funding of these programs is authorized by 25 U.S.C. 13 to make determinations of eligibility for the BIA's social service financial assistance programs: General Assistance, Child Welfare Assistance, Miscellaneous Assistance, and services only (no cash assistance).

A 60-day notice for public comments was published in the **Federal Register** on February 4, 2008 (73 FR 6524). No comments were received regarding this form.

II. Request for Comments

The Department of the Interior invites comments being sent to OMB on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

(b) The accuracy of the BIA's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. Please note that all comments received will be available for public review. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so. We do not consider anonymous comments. All comments from representatives of businesses or organizations will be made public in their entirety.

OMB is required to respond to this request within 60 days after publication of this notice in the **Federal Register**, but may respond after 30 days; therefore, your comments should be submitted to OMB within 30 days of publication to assure maximum consideration.

Burden means the total time 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; to develop, acquire, install and utilize technology and systems for the purpose of collection, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources to complete and review the collection of information; and to transmit or otherwise disclose the information.

III. Data

Title of the collection of information: Financial Assistance and Social Service Programs 25 CFR 20, Form BIA 5–6601.

OMB Number: 1076–0017.

Expiration Date: September 30, 2008.

Type of Review: Extension of a currently approved collection. The information is submitted to obtain or retain benefits and for case management/case planning purposes.

Affected Entities: Individual members of Indian tribes who are living on a reservation or within a tribal service area.

Frequency of responses: One application per year.

Estimated Number of Annual Responses: 200,000.

Estimated Total Annual Burden Hours: 200,000 × 30 min. = 100,000 hours.

Dated: July 28, 2008.

Sanjeev ''Sonny'' Bhagowalia,

Chief Information Officer—Indian Affairs.

[FR Doc. E8–17832 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XX]

Notice of Public Meeting: Northeast California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northeast California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, Sept. 18 and 19, 2008, in the Conference Room of the BLM Surprise Field Office, 602 Cressler St., Cedarville, CA. On Sept. 18, the members convene at the Surprise Field Office at 10 a.m. and depart immediately for a field tour focusing on cultural resources. Members of the public are welcome. They must provide their own transportation in a high clearance four-wheel-drive vehicle and their own lunch. On Sept. 19, the meeting runs from 8 a.m. to 3 p.m. at the Surprise Field Office conference room. Time for public comment is reserved at 11 a.m.

FOR FURTHER INFORMATION CONTACT: Tim Burke, BLM Alturas Field Office manager, (530) 233–4666; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in northeast California and the northwest corner of Nevada. At this meeting, agenda topics will include an update on implementation of BLM resource management plans, the proposed Kramer Ranch land exchange, a status report on wind energy development proposals and cultural resource management. Members also will hear status reports from the Alturas, Eagle Land and Surprise field offices. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: July 29, 2008.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. E8–17779 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; NVN–75209; 8–08807]

Public Land Order No. 7713; Partial Revocation of Public Land Order No. 7619 Dated October 6, 2004; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Public Land Order insofar as it affects approximately 1,099.51 acres, more or less, of public lands withdrawn from surface entry and mining for the Bureau of Land Management to protect public

health and safety and to perform site reclamation activities of the Paradise Peak and County Line mines. The lands surrounding the County Line mine have been reclaimed and are no longer needed for reclamation purposes. This order opens those lands to surface entry and mining. The lands surrounding the Paradise Peak mine have not undergone complete reclamation and will remain withdrawn.

DATES: *Effective Date:* September 3, 2008.

FOR FURTHER INFORMATION CONTACT: Jacqueline Gratton, BLM, Nevada State Office, P.O. Box 12000, 1340 Financial Blvd., Reno, Nevada 89520, 775–861–6532.

SUPPLEMENTARY INFORMATION: Reclamation has been completed at the County Line mine site and the Bureau of Land Management has determined that the withdrawal is no longer needed to protect the public lands.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Public Land Order No. 7619 (69 FR 62286 (2004)), which withdrew land from surface entry and mining on behalf of the Bureau of Land Management to protect public health and safety and to perform reclamation activities at the County Line mine site, is hereby revoked insofar as it affects the following described lands:

Mount Diablo Meridian

T. 10 N., R. 35 E.,
Sec. 1, lots 1, 8, 9, 16, and 17, and E½SE¼.
T. 10 N., R. 36 E.,
Sec. 6, lots 1 to 18, inclusive, E½SW¼, and SE¼.

The areas described aggregate 1,099.51 acres, more or less, in Mineral and Nye counties.

2. At 9 a.m. on September 3, 2008, the lands described in Paragraph 1 will be opened to all forms of appropriation under the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 3, 2008, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on September 3, 2008, the lands described in Paragraph 1 shall be opened to location and entry under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of the lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 13, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

[FR Doc. E8–17833 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 19, 2008. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 19, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Coconino County

Sedona Ranger Station, Brewer Rd. S. of Hart Rd., Sedona, 08000810.

ARKANSAS

Johnson County

Clarksville Commercial Historic District, Roughly bounded by McConnell St. on the S.; Cherry St. on the N.; Johnson St. on the W.; Spadra Creek on the E., Clarksville, 08000816.

Nevada County

Prescott Commercial Historic District, Roughly bounded by E. 3rd St., Walnut St., W. 3rd St. and Pine St., Prescott, 08000818.

Woodruff County

Augusta Commercial Historic District, Roughly bounded by 1st, Locust, Main, 2nd, and Pearl Sts., Augusta, 08000817.

DISTRICT OF COLUMBIA

District of Columbia

Danzansky Funeral Home, 3501 14th St., NW., Washington, 08000819.
George M. Baker Company Warehouse, 1525 7th St., NW., Washington, 08000820.
U.S. Department of Housing and Urban Development, 451 7th St., SW., Washington, 08000824.
U.S. Tax Court, 400 2nd St., NW., Washington, 08000821.

MARYLAND

Prince George's County

Langley Park, 8151 15th Ave., Langley Park, 08000809.

MISSOURI

Cape Girardeau County

Cape Girardeau Commercial Historic District (Boundary Increase II), (Cape Girardeau, Missouri MPS), 127 N. Water St., Cape Girardeau, 08000808.

Jackson County

Northeast Douglas Street Residential Historic District, (Lee's Summit, Missouri MPS), NE Douglas St. roughly between Elm and Maggie Sts., Lee's Summit, 08000803.
Northeast Forest Avenue and Northeast Green Street Residential Historic District, (Lee's Summit, Missouri MPS), 108, 110, 114 NE Forest Ave. and 310, 312 NE Green St., Lee's Summit, 08000804.
Northeast Green and 1st Streets Residential Historic District, (Lee's Summit, Missouri MPS), Roughly bounded by NE Douglas St., Maple St., 1st St., and NE Johnson St., Lee's Summit, 08000805.

Marion County

Clemens Field, 401 Collier, Hannibal, 08000807.

Miller County

Bagnell Dam and Osage Power Plant, 617 River Rd., Lake Ozark, 08000822.

St. Louis Independent City

Cook Avenue Methodist Episcopal Church, South, 3680 Cook Ave., St. Louis, 08000806.

MONTANA

Lewis and Clark County

Broadwater, Charles A., House, 1104 Williams St., Helena, 08000825.

Lincoln County

Libby High School, SW. corner of Mineral Ave. and E. Lincoln Blvd., Libby, 08000823.

NORTH CAROLINA

Avery County

Wise, Milligan Shuford, and Theron Colbert Dellinger Houses, 152 and 158 Hemlock Ln., 142 Dellinger Rd., 110 Pine St., Crossnore, 08000811.

Buncombe County

Norwood Park Historic District, District is bounded roughly on the W. and S. by Murdock St.; on the N. by Woodward Ave.; on the E. by Norwood Ave., Asheville, 08000815.

Durham County

Holloway, Kinchen, House, 4418 Guess Rd., Durham, 08000814.

Rutherford County

Melton-Davis House, 477 DePriest Rd., Bostic, 08000813.

Watauga County

Blair Farm, N. side of VA 1522 just W. of its jct. with Blairmont Dr., Boone, 08000812.

OHIO

Guernsey County

Taylor, Colonel Joseph, House, 633 Upland Rd., Cambridge, 08000801.

Hamilton County

Union Trust Building, 36 E. 4th St., Cincinnati, 08000802.

[FR Doc. E8–17750 Filed 8–1–08; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Privacy Act of 1974; Amendments to Existing Systems of Records

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Proposed amendment of existing Privacy Act systems of records.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, is issuing public notice of its intent to amend 2 existing Privacy Act system of records notices to add a new routine use to authorize the disclosure of records to individuals involved in responding to a breach of Federal data.

DATES: Comments must be received by September 15, 2008.

ADDRESSES: Any persons interested in commenting on these proposed amendments may do so by submitting comments in writing to the Office of Chief Information Officer, Willie Chism, Office of Surface Mining and Reclamation, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *wchism@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: Office of the Chief Information Officer, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: On May 22, 2007, in a memorandum for the heads of Executive Departments and Agencies entitled ''Safeguarding Against and Responding to the Breach of Personally Identifiable Information,'' the Office of Management and Budget directed agencies to develop and publish a routine use for disclosure of information in connection with response and remedial efforts in the event of a data breach. This routine use will serve to protect the interest of the individuals whose information is at issue by allowing agencies to take appropriate steps to facilitate a timely and effective response to the breach, thereby improving its ability to prevent, minimize or remedy any harm resulting from a compromise of data maintained in its systems of records. Accordingly, the Director, Office of Surface Mining, is proposing to add a new routine use to authorize disclosure to appropriate agencies, entities, and persons, of information maintained in the following systems in the event of a data breach. These amendments will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Dated: July 29, 2008.

Douglas Wink,

Acting Chief Information Officer, Office of Surface Mining and Reclamation.

SYSTEM NAMES:

OSM–8, ''Employment and Financial Interest Statements—States and Other Federal Agencies.'' (Published April 9, 1999, 64 FR 17412–17413)

''Blaster Certification—Interior/OSMRE–12''. (Published April 9, 1999, 64 FR 17413)

NEW ROUTINE USE:

DISCLOSURES OUTSIDE THE DEPARTMENT OF THE INTERIOR MAY BE MADE:

To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E8–17793 Filed 8–1–08; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 and 731–TA–1118–1120 (Final)]

Light-Walled Rectangular Pipe and Tube From China, Korea, and Mexico

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) & 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China, Korea, and Mexico of light-walled rectangular pipe and tube, provided for in subheading 7306.61.50 of the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

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 (LTFV) and by imports from China of light-walled rectangular pipe and tube found by Commerce to be subsidized by the Government of China.[2] [3]

Background

The Commission instituted these investigations effective June 27, 2007, following receipt of a petition filed with the Commission and Commerce by twelve U.S. producers.[4] The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of light-walled rectangular pipe and tube from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports of light-walled rectangular pipe and tube from China, Korea, and Mexico 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 investigations 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** of February 5, 2008 (73 FR 6740). The hearing was held in Washington, DC, on April 11, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 28, 2008. The views of the Commission are contained in USITC Publication 4024 (July 2008), entitled *Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico, Inv. Nos. 701–TA–449 and 731–TA–1118–1120 (Final)).*

By order of the Commission.

Issued: July 28, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–17764 Filed 8–1–08; 8:45 am]

BILLING CODE 7020–02–P

[2] Commissioner Dean A. Pinkert is recused from these investigations.

[3] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on China.

[4] Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; EXLTUBE, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA.

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: New Information Collection; Comments Requested

ACTION: 60-Day Notice of New Information Collection Under Review: NICS Act State Record Estimates Information Collection Form.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (BJS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until October 3, 2008. This process is conducted in accordance with 5 CFR 1320.10.

The proposed information collection is available line at *http://www.ojp.usdoj.gov/bjs/niaa.htm*. Written comments should be directed to: Gerard F. Ramker, Bureau of Justice Statistics, 810 Seventh St., NW., Washington, DC 20531. Comments are solicited to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics pursuant to the NICS Improvement Amendments Act of 2007 (Public Law 110–180), including whether the information will have practical utility;
- Evaluate the accuracy of BJS'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.

Overview of This Information Collection

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* NICS Act State Record Estimates Information Collection Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Not applicable.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State and Local Government. This information collection seeks of available state and local records, and other information pursuant to the NICS Improvement Amendments Act of 2007 (Public Law 110–180), enacted on January 8, 2008. Submission of this information is a prerequisite for states to be eligible to apply for federal grant funds under programs authorized in the Act, should Congress appropriate funds for this purpose.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Respondents may include the fifty (50) states, the District of Columbia, and the territories of Guam, American Samoa, U.S. Virgin Islands, Puerto Rico, and the Commonwealth of the Northern Mariana Islands. The time required to complete the information collection form is estimated at two (2) hours. It is estimated that the collaboration, research and analysis required to develop the estimates and formulate the responses required by the initial information collection could range between 8 and 160 hours depending on the availability of data on which required estimates can be based.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The range of total burden hours associated with this collection is estimated at between 896 and 17920 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: July 29, 2008.

Lynn Bryant,

Department Clearance Officer, Department of Justice.

[FR Doc. E8–17799 Filed 8–1–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for A Cooperative Agreement: Continuation of Evidence Based Implementation in Maricopa County, AZ, and Orange County, CA

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: Through this twelve month cooperative agreement NIC will build on work started in 2002 to implement systemwide evidence based policy and practices (EBP). This award will complete work already started in Maricopa County, Arizona, and Orange County, California, to enable them to sustain their rates of ongoing progress in terms of measured recidivism outcomes and other productivity indicators through time. Measured progress must be made in all organizational and system alignment areas indicated in the strategic plans already developed by both sites.

DATES: All applications are due by 4 p.m. EDT on August 21, 2008.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First St., NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, call 202–307–3106, extension 0, for pickup.

Faxed applications will not be accepted. Only e-mailed applications which are submitted via *www.grants.gov* will be accepted.

FOR FURTHER INFORMATION: A copy of this announcement and the required application forms can be downloaded from the NIC Web site at *www.nicic.gov.* Hard copies of the announcement can be obtained by calling Pam Davison at 1–800–995–6423, extension 30484, or at e-mail *pdavison@bop.gov.*

All technical or programmatic questions concerning this announcement should be directed to Dot Faust at *dfaust@bop.gov* or to George Keiser at *gkeiser@bop.gov.*

SUPPLEMENTARY INFORMATION:

Background: Since 2002, the National Institute of Corrections has been involved in systemwide implementation of evidence based policy and practices. Through NIC's work with the Cooperative Agreement Awardee Community Resources for Justice, Inc. and a National Steering Committee, a package of evidence based policy implementation tools and white papers have been established (see NIC's Web site: *www.nicic.gov.*) The state-level learning sites of Maine and Illinois have provided direct implementation experience for developing processes, evaluation measures, and advocacy positions to firmly establish evidence based policy and practice as the preferred business practice for reaching risk and recidivism reduction goals in those two states. NIC's formal technical assistance role with the pilot sites of Maine and Illinois ended in 2007, although stakeholders in both states continue to provide coaching for other sites and to collect data and analyze outcome measures that inform decision making as the efforts move forward.

The existing implementation initiative expanded to two metropolitan county sites in 2007, taking with it lessons learned and the implementation tools developed during the Maine/Illinois phase. The two urban sites identified in 2007 (Maricopa County, Arizona, and Orange County, California) were deliberately chosen because of their potential to take already established evidence based policy and practice (EBP) to higher, more advanced levels, and to provide experience implementing evidence based change in large, complex county governments. During most of 2007 and 2008, the Project Team has met with a variety of system stakeholders in these sites to analyze gaps in EBP implementation, develop strategic plans that address these gaps and move the systems forward, and to establish both feedback loops and evaluation plans to guide these two large urban jurisdictions toward an advanced stage of EBP implementation.

Due to agency policy, NIC obligates itself to complete this final twelve-month phase of existing work. In no way does this reflect any dissatisfaction on the part of NIC or the two implementation sites with the current assistance provider. The current provider is not barred from this competition.

Purpose: The purpose of this final twelve-month period of the Maricopa and Orange County Initiatives is to achieve an advanced level of EBP implementation in both sites that will enable them to sustain their rates of ongoing progress in terms of measured recidivism outcomes and other productivity indicators through time. Measured progress must be made in all organizational and system alignment areas indicated in the strategic plans already developed by both sites.

Specific Requirements: The proposal should include a description of the project objectives, methodologies and management plan for achieving the completion of the results as indicated in the following information within the 12-month time period. This description should explain and accompany a Work Plan for the 12-month period, beginning September 2, 2008 through September 1, 2009. The Work Plan should be attached to a GANTT chart, separated by TA site (*i.e.*, one for Orange County; and one for Maricopa County.) Project tasks should be mapped on the GANTT Chart in 3-month, or quarterly, pieces of work. At a minimum, the Work Plan should note relevant objectives, tasks, responsible persons, benchmark dates and measures of completion. A budget narrative that is consistent with the program description and Work Plan must also be included.

Strategy And Process Benchmarks: It is intended that the following process benchmarks (or objectives) be reached or refined in Maricopa and Orange Counties during the next 12-month time period, facilitated and documented by the awardee of this solicitation. For each benchmark, the applicant should describe the outcomes, process measures or products that demonstrate that the objectives have arrived at the achievement stages or at the process development levels described for each jurisdiction. These indicators need to be consistent with the Strategic Plans previously developed (available at: *http://www.ocgov.com/probation/library/OCWorkplan071608.pdf* and *http://www.superiorcourt.maricopa.gov/AdultProbation/docs/EBPplan.pdf.*)

By September of 2009, the following benchmarks need to have been addressed or need to be included in ongoing improvement strategies as described:

Maricopa County

Organizational Climate: Results of assessment or reassessment will have been analyzed and reviewed. Organizational interventions will have been developed, delivered and measured as needed.

First-line Supervisors: Management reports will have been developed on the quality assurance (QA) measures, and will be reviewed and used by the executive team. Performance appraisal processes will reflect these changes.

Performance Appraisal: Core competencies will be included in the appraisal process, and will have been aligned with the Maricopa County strategic plan and results oriented budget process.

Hiring and Promoting: Job descriptions and interview processes

will have been revised. Succession planning strategies will be under measurement and review.

Communication: A Communication Plan will have been developed, and will be on track with the original objectives and time line.

Quality Implementation: The QA Plan will be on track with time lines, and the QA Team will have developed objectives and productivity measures. The QA Team will have been trained in risk assessment and case management fidelity.

Training: A full curriculum for skill training and quality assurance will have been developed and will be in the process of being administered, including training-for-trainers and specialized material for mid-managers.

Graduated Responses: Guidelines will have been developed and pilot testing will have started.

Stakeholder Involvement: An outreach plan will have been developed and community engagement will be in the process of being implemented. Treatment providers will have been included in this plan. Training and assessment will be part of the outreach plan, both for stakeholders and for department executive staff.

Technology: As needed, adjustments will have been made to accommodate the needs for management reports, QA measurement, accurate risk assessment and case management.

Orange County

Assessments: Both organizational and case level assessment tools will be in the process of being administered or re-administered, and measurements will be ongoing to gauge fidelity and effectiveness.

Training: Assessed training needs will have been reflected in new training curriculums at all staff levels. Competencies and skills will be under continual measurement.

Staff Performance: Competency models will have been developed and will be under a monitoring process for coaching and feedback. The new models will reflect emphasis on staff engagement and EBP-focused competencies.

Client Satisfaction and officer/offender relationships will have been defined and measured.

Case Planning: Policies and processes for adult and juvenile case planning will have been unified for purposes of consistency and data sharing when feasible. Progress will have been made on the development of enhanced data collection to include community resources.

Data: New data elements as required to measure evidence based practices will have been incorporated into the data base for measurement and review.

Stakeholders: Communication strategies will have been developed for the identified key stakeholders. Both education and monitoring will have been put into process. The target stakeholders will include internal staff and private treatment providers. Both informational reporting and goal setting will be part of routine practice.

Program Evaluation: Program evaluations will be conducted on evidence based programs, using validated program evaluation instruments and processes.

Organizational Change Capacity: Leadership development initiatives and transition strategies will be established to strengthen the capacity for sustained and continued incorporation of evidence based principles and capacity of current and future department leaders.

Evaluation and Research (both Maricopa and Orange Counties)

Officer Level: Complete data collection and analysis will have begun on site. Separate analyses will be in the process of being completed for line staff, using evidence based competencies and skills.

Supervisor and Leadership Level: Data collection and analysis on the 360 assessments, team assessments and other management level assessments administered in the first year of implementation will have been completed. Ongoing reassessments and strategy adjustments will be part of the implementation plan.

Quality Assurance: Complete QA plans will have been implemented in both pilot sites. At a minimum, measurements will be related to caseload management, risk assessment, treatment quality and recidivism reduction objectives as identified.

Offenders: Research will have begun on offender surveys and core competency relationships to outcome (see Offender/Officer Relationship.)

Intermediate and Final Outcome Measures: At a minimum, data related to identified intermediate outcome measures will be routinely collected, analyzed and used in decision making. Data related to both intermediate and final recidivism reduction measures will be part of management reporting.

Offender/Officer Relationship: Preliminary data related to the relationship between officer behavior and attitudes and offender performance will have been collected and analyzed.

Organizational Level: Organizational assessments administered during the first year of the implementation initiative will be under a process of continual review as needed to address identified growth areas and progressive improvements in policy and practice.

Application Requirements: The application package must include: OMB Standard Form 424, Application for Federal Assistance; cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.*, July 2 through June 30); an outline of projected costs; and the following forms: OMB Standard Form 424A, Budget Information—Non Construction Programs; and OMB Standard Form 424B, Assurances—Non Construction Programs; (These forms are available on *www.grants.gov.*) Other forms: You will also need to attach the completed DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.org/Downloads/PDF/certif-frm.pdf.*)

It is requested that the program narrative text be limited to no more that 10 double spaced pages, excluding statements of organizational or individual capacity and summaries of the experiences and capabilities of key project staff and/or the individual applicant. Please submit summaries of experience and expertise and not full curricula vitae. Also note in your application any technical skills, experience or credentials that make you or your organization distinctly qualified to deliver the specified products.

Telephone Conference: A telephone conference will be conducted on August 8, 2008, at 1 pm EDT for persons receiving this solicitation and having a serious intent to respond. In this conference, NIC project managers will respond to questions regarding the solicitation and expectations of work to be performed. Please notify Dot Faust electronically (*dfaust@bop.gov*) by 12 pm EDT on August 6, 2008, regarding your interest in participating in the telephone conference. You will be provided with a call-in number and instructions. In addition, NIC project managers will post answers to questions received from potential applicants on its Web site for the remaining week in which the solicitation is open to public interest.

Authority: Public law 93–415.

Funds Available: NIC is seeking the applicants' best ideas regarding accomplishment of the scope of work

and the related costs for achieving the goals of this solicitation. The final budget and award amount will be negotiated between NIC and the successful applicant. Funds may only be used for the activities that are linked to the desired outcome of the project.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual or team with the expertise and experience in described areas.

Review Considerations: Applications received under this announcement will be subject to a 3 to 5 person NIC Peer Review Process.

Number of Awards: One.

NIC Application Number: 08C80. This number should appear as a reference line in the cover letter, in box 4a of Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.603.

Executive Order 12372: This program is subject to the provisions of Executive Order 12372. E.O. 12372 allows states the option of setting up a system for reviewing applications from within their states for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which can be found at *http://www.whitehouse.gov/omb/grants/spoc.html.*

Thomas J. Beauclair,

Deputy Director, National Institute of Corrections.

[FR Doc. E8–17725 Filed 8–1–08; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Document—Inmate Behavior Management: Keeping Inmates Productively Occupied

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections, Jails Division, is seeking applications for the development of a document that provides jail practitioners with a guide on developing and implementing programs and activities for jail inmates, as part of an overall strategy to manage inmate behavior.

DATES: Applications must be received by 4 p.m. EDT, Friday, August 15, 2008.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, dial 7–3106, ext. 0 for pickup. Faxed or e-mailed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC Web page at *http://www.nicic.gov*. Hard copies of the announcement can be obtained by calling Pam Davison at 1–800–995–6423 ext. 30484 or e-mail *pdavison@bop.gov*.

All technical or programmatic questions concerning this announcement should be directed to Robbye Braxton-Mintz, Correctional Program Specialist, National Institute of Corrections, Jails Division. Ms. Mintz can be reached on 1–800–995–6423 ext. 44562 or by e-mail at *rbraxtonmintz@bop.gov*.

SUPPLEMENTARY INFORMATION:

Background: The National Institute of Corrections (NIC) has identified six key elements in the effective management of inmate behavior in jails:

Assessing the risks and needs of each inmate at various points during his/her detention;

Assigning inmates to appropriate housing;

Meeting inmates' basic needs;

Defining and conveying expectations for inmate behavior;

Supervising inmates;

Keeping inmates productively occupied.

If a jail fully and properly implements all six elements, it should experience a significant reduction in the negative inmate behavior often experienced in jails, such as vandalism, violence, rule violations, and disrespectful behavior toward staff and other inmates.

The NIC Jails Division offers training and technical assistance on inmate behavior management, but wishes to develop additional tools that will help jails implement the individual elements.

Objectives: The National Institute of Corrections wishes to produce a document that gives jail practitioners guidance on how to develop and implement inmate activities and programs, as part of the overall inmate behavior management strategy.

Statement of Work: General Information.

Document Length: The number of pages in the body is to be determined. The document will include appendices and a bibliography.

Document Audience: Jail administrators and program management staff. This guide is intended for use by jails of all sizes.

Use of Document: The document will be a practical guide for developing and implementing inmate activities and programs in a jail setting, as part of the overall inmate behavior management strategy.

Document Distribution: NIC expects to distribute the document widely. It will be made available on the NIC Web site and through the NIC Information Center, upon request and free of charge.

Document Content: The document will be a clear and practical guide for jail practitioners on developing, implementing, and evaluating inmate activities and programs in jails, within the context of inmate behavior management. It must account for diversity among jails, in terms of size and resources available.

The document will cover the following, at a minimum:

The benefits of implementing inmate activities and programs in jails related to reducing idle time and negative behavior. The document must cite the available evidence of the relationship between inmate activities and programs and the reduction of negative inmate behavior. This will involve identifying research on this topic and contact with a variety of jails to obtain information on their experience. In some cases, studies may be available. In other cases, only anecdotal evidence may be given. The author will identify, review, and cite both types of evidence.

The role of jail administration and management staff in providing leadership and support for reducing negative inmate behavior through implementation of activities and programs. The author will stress the importance of the jail administrator's demonstrated commitment to this and provide concrete examples of how the administrator can actively demonstrate commitment.

Determination of need for inmate activities and programs. The document will discuss needs in two primary areas. The first area focuses on the needs of the jail regarding reduction of negative inmate behavior. The document will explain the collection and analysis of data on the types and frequency of inmate misbehavior and the relationship between misbehavior and lack of productive activities for inmates. The

second area focuses on determining the needs of inmates as a basis for designing programs such as anger management, life skills, pro-social skills, substance abuse, education, physical fitness, and other. The document will explain how to collect and analyze data to identify trends in the needs of the inmate population, with reference to the first element of inmate behavior—''assessing the risks and needs of each inmate.''

Goal setting. The document will describe how to set measurable goals for inmate activities and programs related to both areas of need noted above. The document will describe a process for setting realistic goals that can be measured, determining time frames for measuring goal achievement, and devising methods of measuring goal achievement.

Planning, designing, and implementing activities and programs. The document will describe considerations in planning, designing, and implementing programs that will contribute to achieving goals related to reduction of negative inmate behavior and meeting inmates' needs. This will include consideration of goals, identification of the inmate populations targeted, funding required, space and equipment needs, staffing needs (whether staff or volunteers), and the specific tasks and timelines required for implementation. It will also include a discussion of commonly encountered barriers to planning and implementing activities and programs—such as those related to resources, staff support, administrative commitment, and suggest strategies for overcoming the barriers, with examples from jails that have experienced this. Finally, the document will stress the importance of documenting activities and programs, with specific suggestions on the documentation necessary to evaluate both the quality of implementation and progress in achieving goals.

An overview of the range and types of inmate activities and programs that may be developed to reduce negative inmate behavior and meet inmates' needs. The document will provide examples of activities and programs that range from no-cost to high-cost and from simple to complex. It will also note, for example, the types of staff (jail staff, volunteers, non-jail personnel) that are necessary to implement the activities and programs. It is important that the document clearly convey that the jail has a variety of options that are no to low-cost and that some level of productive activities and programs can be implemented in any jail, regardless of size or resource levels. The document will also describe potential resources the jail can draw upon in implementing activities and programs.

Evaluation of activities and programs (assessing both the quality of implementation and success in achieving goals). The document will describe the data collection and analysis necessary for evaluation, and it will describe evaluation processes.

Revision of activities and programs based on evaluation Project Description: The awardee will produce a completed document that has received initial editing from a professional editor. NIC will be responsible for the final editing process and document design, but the awardee will remain available during this time to answer questions and to make revisions to the document.

Project Schedule: The list below shows the major activities required to complete the project. Document development will begin upon award of this agreement and must be completed 12 months after the award date. The schedule for completion of activities should include, at a minimum, the following activities. The awardee will:

Meet with NIC project manager for an overview of the project and initial planning;

Review materials provided by NIC;

Complete the initial outline of document content and layout;

Meet with NIC project manager to review, discuss and agree on content outline;

Research content topics and related resources;

Submit draft sections of document to NIC for review;

Revise draft sections for NIC's approval;

Submit document to editor hired by awardee for first content edit;

Submit a draft of entire document to NIC for review;

Revise document for NIC's approval; and

Submit document to NIC in hard copy and on disk in Microsoft Word format.

Throughout the project period, the awardee should make provision for meetings with NIC staff, to be held in Washington, DC, at critical planning and review points in document development.

Document Preparation: For all awards in which a document will be a deliverable, the awardee must follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements'' which will be included in the award package.

Application Requirements: An application package must include OMB Standard Form 424, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); and an outline of projected costs. The following additional forms must also be included: OMB Standard Form 424A, Budget Information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (both available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.gov/Downloads/PDF/certif-frm.pdf*).

Applications should be concisely written, typed double spaced and reference the NIC Application Number and Title provided in this announcement.

Submit an original and three copies of your full proposal (program and budget narrative, application forms and assurances). The original should have the applicant's signature in blue ink. As previously stated, electronic submissions will only be accepted via *www.grants.gov*.

The narrative portion of the application should include, at a minimum, a:

Brief paragraph indicating the applicants' understanding of the purpose of the document and the issues to be addressed;

Brief paragraph that summaries the project goals and objectives;

Clear description of the methodology that will be used to complete the project and achieve its goals;

Statement or chart of measurable project milestones and time lines for the completion of each milestone;

Description of the qualifications of the applicant organization and a resume for the principal and each staff member assigned to the project that documents relevant knowledge, skills and ability to carry out the project;

Minimum of three references for which the applicant has provided a similar service;

Budget that details all costs for the project, shows consideration for all contingencies for this project, and notes a commitment to work within the proposed budget; and

Sample of a least one document completed by the applicant.

The applicant must specify its role in the production of the sample document(s).

Authority: Public Law 93–415.

Funds Available: NIC is seeking the applicants' best ideas regarding

accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. The final budget and award amount will be negotiated between NIC and the successful applicant. Funds may only be used for the activities that are linked to the desired outcome of the project.

Eligibility of Applicants: Applications are solicited from any state or general unit of local government, private agency, educational institution, organization, individual or team with expertise in the described areas. Applicants must have a demonstrated ability to implement a project of this size and scope.

Review Considerations: Applications will be reviewed by a team of NIC staff. Among the criteria used to evaluate the applications are:

Indication of a clear understanding of the project requirements;

Background, experience, and expertise of the proposed project staff, including any sub-contractors;

Effectiveness of the creative approach to the project;

Clear, concise description of all elements and tasks of the project, with sufficient and realistic time frames necessary to complete the tasks;

Technical soundness of project design and methodology;

Financial and administrative integrity of the proposal, including adherence to federal financial guidelines and processes;

A sufficiently detailed budget that shows consideration of all contingencies for this project and commitment to work within the budget proposed; and

Indication of availability to meet with NIC staff.

Number of Awards: One.

NIC Application Number: 08J66.

Catalog of Federal Domestic Assistance Number: 16.601.

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Thomas J. Beauclair,

Deputy Director, National Institute of Corrections.

[FR Doc. E8–17729 Filed 8–1–08; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2008–0025]

Servicing Multi-Piece and Single Piece Rim Wheels; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend OMB approval of the information collection requirements contained in the Standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177). The paperwork provisions of the Standard include a requirement that the manufacturer or a Registered Professional Engineer certify that repaired restraining devices and barriers meet the strength requirements specified in the Standard, and a requirement that defective wheels and wheel components be marked or tagged.

DATES: Comments must be submitted (postmarked, sent, or received) by October 3, 2008.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2008–0025, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., *e.t.*

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2008–0025). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing efforts to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Certification of repair (1910.177(d)(3)(iv)). This paragraph

requires that when restraining devices and barriers are removed from service because they are defective, they shall not be returned to service until they are repaired and reinspected. If the repair is structural, the manufacturer or a Registered Professional Engineer must certify that the strength requirements specified in (d)(3)(i) of the Standard have been met.

The certification records are used to assure that equipment has been properly repaired. The certification records also provide the most efficient means for OSHA compliance officers to determine that an employer is complying with the Standard.

Marking or tagging of wheel components (1910.177(e)(2)). This paragraph requires that defective wheels and wheel components ''be marked or tagged unserviceable and removed from the service area.'' Under this requirement, OSHA is providing employers with sufficient information from which they can derive the wording to use in marking the object or constructing a tag. Therefore, this provision imposes no paperwork burden because it falls within the portion of 5 CFR 1320(c)(2) that states, ''The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition [of 'collection of information']''.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177). OSHA is proposing to retain its current burden hour estimate of one (1) hour. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177).

OMB Number: 1218–0219.

Affected Public: Business or other for-profits; Not-for-profit organizations; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 80.

Frequency of Response: On occasion.

Average Time per Response: Three (3) minutes (.05 hour) to maintain a certificate verifying proper repair of a restraining device or barrier and to disclose to an OSHA Compliance Officer.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2008–0025). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http: // www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http:// www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31159).

Signed at Washington, DC, this 29th day of July 2008.

Edwin G. Foulke, Jr.

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–17753 Filed 8–1–08; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on September 3, 2008, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, September 3, 2008, 8 a.m. until 9:30 a.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Officer, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 26, 2007 (72 FR 54695).

Further information regarding this meeting can be obtained by contacting the Designated Federal Officer between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: July 28, 2008.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E8–17794 Filed 8–1–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–255 and 72–7]

In the Matter of Entergy Nuclear Operations, Inc.; Entergy Nuclear Palisades, LLC (Palisades Nuclear Plant); Order Approving Indirect Transfer of Facility Operating License

I

Entergy Nuclear Operations, Inc. (ENO) and Entergy Nuclear Palisades, LLC (EN-Palisades) are co-holders of the Renewed Facility Operating License, No. DPR–20, which authorizes the possession, use, and operation of the Palisades Nuclear Plant (Palisades). Palisades is a pressurized water nuclear reactor that is owned by EN-Palisades and operated by ENO. The facility is located in Van Buren County, Michigan.

II

By application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, ENO, acting on behalf of itself and EN-Palisades, requested that the U.S. Nuclear Regulatory Commission (NRC, the Commission), pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), consent to the proposed indirect transfer of control of the Palisades license, including the general license for the independent spent fuel storage installation.

EN-Palisades is currently a direct wholly-owned subsidiary of Entergy Nuclear Midwest Investment Company, LLC which, in turn, is a direct wholly-owned subsidiary of Entergy Nuclear Holding Company which, in turn, is a direct wholly-owned subsidiary of Entergy Corporation. Therefore, under the current corporate structure, Entergy Corporation is the indirect owner of 100 percent of EN-Palisades.

Under the proposed corporate restructuring, a new holding company, Enexus Energy Corporation (Enexus), will be created. Initially, the shareholders of Entergy Corporation will separately own the shares of Enexus and, as such, Enexus will be owned by the public. Entergy Nuclear Holding Company will become a direct wholly-owned subsidiary of Enexus. Accordingly, following the corporate restructuring, Enexus will acquire indirect control of 100 percent of EN-Palisades.

ENO, the operator of the Palisades facility, is currently a direct wholly-owned subsidiary of Entergy Nuclear Holding Company #2 which, in turn, is a direct wholly-owned subsidiary of Entergy Corporation. Therefore, Entergy Corporation is currently the indirect owner of 100 percent of ENO.

Under the proposed corporate restructuring, Entergy Nuclear Holding Company #2 will be eliminated and ENO will become a direct subsidiary of a new parent company called EquaGen LLC. EquaGen LLC will be owned in equal shares by two new intermediate holding companies as follows. Entergy EquaGen, Inc. is being created as a direct subsidiary of Entergy Corporation and will own 50 percent of EquaGen LLC. Similarly, Enexus EquaGen, LLC is being created as a direct subsidiary of Enexus and will also own 50 percent of EquaGen LLC. Accordingly, following the corporate restructuring, Entergy Corporation and Enexus will each have indirect control of 50 percent of ENO.

Finally, ENO will be converted from a corporation to a limited liability company and its name will be changed from Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC. Under Delaware law, EquaGen Nuclear LLC will assume all of the rights and responsibilities of ENO, and it will be the same company (legal entity) both before and after the conversion and name change. Also, EN-Palisades will undergo a name change to become Enexus Nuclear Palisades, LLC. The staff understands that ENO will request an administrative license amendment to conform the Palisades license in the near future.

Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on January 16, 2008 (73 FR 2948). By petition dated February 5, 2008, Locals 369 and 590, Utility Workers Union of America (UWUA), American Federation of Labor-Congress of Industrial Organization, representing plant workers at the Pilgrim Nuclear Power Station located in Plymouth, Massachusetts, responded to the **Federal Register** notice and requested a hearing and leave to intervene as a party in the Palisades proceeding. On June 12, 2008, Local 369 filed a notice of withdrawal of its petition to intervene. The notice of withdrawal did not apply to Local 590.

The request for a hearing is currently pending before the Commission. Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the presiding officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Pursuant to 10 CFR 50.80(a), no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application as supplemented, the NRC staff concludes that the proposed indirect transfer of control of the license held by EN-Palisades to Enexus, as described herein, will not affect the qualifications of EN-Palisades as holder of the Palisades license. The indirect transfer of control of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the NRC. Furthermore, the NRC staff concludes that the proposed corporate restructuring involving new intermediate and ultimate parent companies over ENO, as described herein, will not affect the qualifications of ENO as holder of the Palisades license. The indirect transfer of control of the license as held by ENO, to the extent affected by the proposed restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

The NRC staff concludes that the conversion of Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC would not constitute a direct transfer of the licenses to the extent held by ENO. Therefore, no consent to the proposed conversion is necessary.

The findings set forth above are supported by the NRC's safety evaluation dated July 28, 2008.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfer discussed above related to the proposed corporate restructuring and establishment of Enexus is approved, subject to the following conditions:

1. EN-Palisades shall enter into the $700 million Support Agreement with Enexus Energy Corporation as described in the application, no later than the time the proposed transactions and indirect license transfer occurs. EN-Palisades shall take no action to cause Enexus Energy Corporation, or its successors and assigns, to void, cancel, or modify the Support Agreement or cause it to fail to perform, or impair its performance under the Support Agreement, without prior written consent of the NRC. The Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transactions and the indirect license transfer. EN-Palisades shall inform the NRC in writing anytime it draws upon the Support Agreement.

2. The ten separate support guarantees from various Entergy subsidiaries, which total $315 million, including the support guarantee relating to Palisades, may be revoked when, and conditioned upon, implementation of the new $700 million Support Agreement at the time the proposed restructuring and indirect license transfer are completed.

3. Should the proposed corporate restructuring and establishment of Enexus not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, and the NRC's safety evaluation dated July 28, 2008, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 28th day of July 2008.

For the Nuclear Regulatory Commission.

Timothy J. McGinty,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–17778 Filed 8–1–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 72–51; Docket No. 50–286]

In the Matter of Entergy Nuclear Operations, Inc.; Entergy Nuclear Indian Point 2, LLC (Indian Point Nuclear Generating Unit No. 2); Entergy Nuclear Indian Point 3, LLC (Indian Point Nuclear Generating Unit No. 3); Order Approving Indirect Transfer of Facility Operating Licenses

I

Entergy Nuclear Operations, Inc. (ENO) and Entergy Nuclear Indian Point 2, LLC (ENIP2) are co-holders of the Facility Operating License, No. DPR–26, which authorizes the possession, use, and operation of the Indian Point Nuclear Generating Unit No. 2 (IP2). ENO and Entergy Nuclear Indian Point 3, LLC (ENIP3) are co-holders of the Facility Operating License, No. DPR–64, which authorizes the possession, use, and operation of the Indian Point Nuclear Generating Unit No. 3 (IP3). IP2 and IP3 are both pressurized water nuclear reactors that are owned by ENIP2 and ENIP3, respectively, and operated by ENO. The facilities are located in Westchester County, New York.

II

By application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, ENO, acting on behalf of itself, ENIP2, and ENIP3, requested that the U.S. Nuclear Regulatory Commission (NRC, the Commission), pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), consent to the proposed indirect transfer of control of the IP2 and IP3 licenses, including the general license for the independent spent fuel storage installation.

ENIP2 is currently a direct wholly owned subsidiary of Entergy Nuclear Holding Company #3, LLC. Entergy Nuclear Holding Company #3, LLC is a direct wholly owned subsidiary of Entergy Nuclear Holding Company which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, under the current corporate structure, Entergy Corporation is the indirect owner of 100 percent of ENIP2.

Under the proposed corporate restructuring, a new holding company, Enexus Energy Corporation (Enexus), will be created. Initially, the public shareholders of Entergy Corporation will separately own the shares of Enexus and, as such, Enexus will be owned by the public. Entergy Nuclear Holding Company, an indirect parent company of ENIP2, will become a direct wholly owned subsidiary of Enexus. Accordingly, following the corporate restructuring, Enexus will acquire indirect control of 100 percent of ENIP2.

ENIP3 is currently a direct wholly owned subsidiary of Entergy Nuclear New York Investment Company 1 which, in turn, is a direct wholly owned subsidiary of Entergy Nuclear Holding Company #1. Seventy-five percent of Entergy Nuclear Holding Company #1 is directly owned by Entergy Corporation while the remaining 25 percent is directly owned by Entergy Global, LLC. Entergy Global, LLC is a direct wholly owned subsidiary of Entergy International Holdings LTD which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, under the current corporate structure, Entergy Corporation is the indirect owner of 100 percent of ENIP3.

Under the proposed restructuring, Entergy Nuclear Holding Company #1 will become a direct wholly owned subsidiary of Enexus. Entergy Global, LLC, Entergy International Holdings LTD, and Entergy Nuclear New York Investment Company 1 will be eliminated. Accordingly, following the corporate restructuring, Enexus will

acquire indirect control of 100 percent of ENIP3.

ENO is currently a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2 which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, Entergy Corporation is currently the indirect owner of 100 percent of ENO.

Under the proposed corporate restructuring, Entergy Nuclear Holding Company #2 will be eliminated and ENO will become a direct subsidiary of a new parent company called EquaGen LLC. EquaGen LLC will be owned in equal shares by two new intermediate holding companies as follows. Entergy EquaGen, Inc. is being created as a direct subsidiary of Entergy Corporation and will own 50 percent of EquaGen LLC. Similarly, Enexus EquaGen, LLC is being created as a direct subsidiary of Enexus and will also own 50 percent of EquaGen LLC. Accordingly, following the corporate restructuring, Entergy Corporation and Enexus will each have indirect control of 50 percent of ENO.

Finally, ENO will be converted from a corporation to a limited liability company and its name will be changed from Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC. Under Delaware law, EquaGen Nuclear LLC will assume all of the rights and responsibilities of ENO, and it will be the same company (legal entity) both before and after the conversion and name change. Also, ENIP2 and ENIP3 will undergo name changes to become Enexus Nuclear Indian Point 2, LLC and Enexus Nuclear Indian Point 3, LLC, respectively. The staff understands that ENO will submit requests for administrative license amendments to conform the affected licenses in the near future.

Notice of the requests for approval and an opportunity for a hearing was published in the **Federal Register** on January 16, 2008 (73 FR 2955). By petition dated February 5, 2008, Locals 369 and 590, Utility Workers Union of America (UWUA), American Federation of Labor-Congress of Industrial Organization, representing plant workers at the Pilgrim Nuclear Power Station located in Plymouth, Massachusetts, responded to the **Federal Register** notice and requested a hearing and leave to intervene as a party in the proceedings for the Indian Point Nuclear Generating Unit Nos. 2 and 3. On June 12, 2008, Local 369 filed a notice of withdrawal of its petition to intervene. The notice of withdrawal did not apply to Local 590. In addition, by petition dated February 5, 2008, the Westchester Citizen's Awareness Network, Rockland County Conservation Association, Promoting Health and Sustainable Energy, Sierra Club—North East Chapter, and Richard Brodsky collectively filed a request for hearing and petition for leave to intervene as a party in the proceedings for the Indian Point Nuclear Generating Unit Nos. 2 and 3.

Both of these requests for hearings are currently pending before the Commission. Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the presiding officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Also, an intervenor from Oswego, New York, submitted two letters to the Commission with public comments dated January 21, 2008, along with an electronic transmission containing public comments dated January 27, 2008. The public comments are addressed by the NRC's safety evaluation dated July 28, 2008.

Pursuant to 10 CFR 50.80(a), no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application as supplemented, the NRC staff concludes that the proposed indirect transfer of control of the licenses held by ENIP2 and ENIP3 to Enexus, as described herein, will not affect the qualifications of ENIP2 and ENIP3 as holders of the IP2 and IP3 licenses, respectively. The indirect transfer of control of the licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the NRC. Furthermore, the NRC staff concludes that the proposed corporate restructuring involving new intermediate and ultimate parent companies over ENO, as described herein, will not affect the qualifications of ENO as holder of the IP2 and IP3 licenses. The indirect transfer of control of the licenses as held by ENO, to the extent affected by the proposed restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

The NRC staff concludes that the conversion of Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC would not constitute a direct transfer of the licenses to the extent held by ENO. Therefore, no consent to the proposed conversion is necessary.

The findings set forth above are supported by the NRC's safety evaluation dated July 28, 2008.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfers discussed above related to the proposed corporate restructuring and establishment of Enexus is approved, subject to the following conditions:

1. ENIP2 and ENIP3 shall enter into the $700 million Support Agreement with Enexus Energy Corporation as described in the application, no later than the time the proposed transactions and indirect license transfer occurs. ENIP2 and ENIP3 shall take no action to cause Enexus Energy Corporation, or its successors and assigns, to void, cancel, or modify the Support Agreement or cause it to fail to perform, or impair its performance under the Support Agreement, without prior written consent of the NRC. The Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transactions and the indirect license transfer. ENIP2 and ENIP3 shall inform the NRC in writing anytime it draws upon the Support Agreement.

2. The ten separate support guarantees from various Entergy subsidiaries, which total $315 million, including the support guarantees relating to IP2 and IP3, may be revoked when, and conditioned upon, implementation of the new $700 million Support Agreement at the time the proposed restructuring and indirect license transfer are completed.

3. Should the proposed corporate restructuring and establishment of Enexus not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and

January 24, March 17, April 22, and May 2, 2008, and the NRC's safety evaluation dated July 28, 2008, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 28th day of July 2008.

For the Nuclear Regulatory Commission.

Timothy J. McGinty,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–17780 Filed 8–1–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–003]

In the Matter of Entergy Nuclear Operations, Inc; Entergy Nuclear Indian Point 2, LLC; (Indian Point Nuclear Generating Unit No. 1); Order Approving Indirect Transfer of Facility Operating License

I

Entergy Nuclear Operations, Inc. (ENO) and Entergy Nuclear Indian Point 2, LLC (ENIP2) are co-holders of the Facility Operating License, No. DPR–5, which authorizes the possession of the Indian Point Nuclear Generating Unit No. 1 (IP1). IP1 is a pressurized water nuclear reactor that is owned by ENIP2 and maintained by ENO. IP1 was permanently shut down in 1974 and placed in a safe storage condition pending decommissioning. The facility is located in Westchester County, New York.

II

By application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, ENO, acting on behalf of itself and ENIP2, requested that the U.S. Nuclear Regulatory Commission (NRC, the Commission), pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), consent to the proposed indirect transfer of control of the IP1 license.

ENIP2 is currently a direct wholly owned subsidiary of Entergy Nuclear Holding Company #3, LLC. Entergy Nuclear Holding Company #3, LLC is a direct wholly owned subsidiary of Entergy Nuclear Holding Company which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, under the current corporate structure, Entergy Corporation is the indirect owner of 100 percent of ENIP2.

Under the proposed corporate restructuring, a new holding company, Enexus Energy Corporation (Enexus), will be created. Initially, the shareholders of Entergy Corporation will separately own the shares of Enexus and, as such, Enexus will be owned by the public. Entergy Nuclear Holding Company will become a direct wholly owned subsidiary of Enexus. Accordingly, following the corporate restructuring, Enexus will acquire indirect control of 100 percent of ENIP2.

ENO is currently a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2 which, in turn, is a direct wholly owned subsidiary of Entergy Corporation. Therefore, Entergy Corporation is currently the indirect owner of 100 percent of ENO.

Under the proposed corporate restructuring, Entergy Nuclear Holding Company #2 will be eliminated and ENO will become a direct subsidiary of a new parent company called EquaGen LLC. EquaGen LLC will be owned in equal shares by two new intermediate holding companies as follows. Entergy EquaGen, Inc. is being created as a direct subsidiary of Entergy Corporation and will own 50 percent of EquaGen LLC. Similarly, Enexus EquaGen, LLC is being created as a direct subsidiary of Enexus and will also own 50 percent of EquaGen LLC. Accordingly, following the corporate restructuring, Entergy Corporation and Enexus will each have indirect control of 50 percent of ENO.

Finally, ENO will be converted from a corporation to a limited liability company and its name will be changed from Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC. Under Delaware law, EquaGen Nuclear LLC will assume all of the rights and responsibilities of ENO, and it will be the same company (legal entity) both before and after the conversion and name change. Also, ENIP2 will undergo a name change to become Enexus Nuclear Indian Point 2, LLC. The staff understands that ENO will request an administrative license amendment to conform the IP1 license in the near future.

Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on January 16, 2008 (73 FR 2955). By petition dated February 5, 2008, Locals 369 and 590, Utility Workers Union of America (UWUA), American Federation of Labor-Congress of Industrial Organization, representing plant workers at the Pilgrim Nuclear Power Station located in Plymouth, Massachusetts, responded to the **Federal Register** notice and requested a hearing and leave to intervene as a party in the proceedings for the Indian Point Nuclear Generating Unit No. 1. On June 12, 2008, Local 369 filed a notice of withdrawal of its petition to intervene. The notice of withdrawal did not apply to Local 590. In addition, by petition dated February 5, 2008, the Westchester Citizen's Awareness Network, Rockland County Conservation Association, Promoting Health and Sustainable Energy, Sierra Club—North East Chapter, and Richard Brodsky collectively filed a request for hearing and petition for leave to intervene as a party in the proceedings for the Indian Point Nuclear Generating Unit No. 1.

Both of these requests for hearings are currently pending before the Commission. Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the presiding officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Also, an intervenor from Oswego, New York, submitted two letters to the Commission with public comments dated January 21, 2008, along with an electronic transmission containing public comments dated January 27, 2008. The public comments are addressed by the NRC's safety evaluation dated July 28, 2008.

Pursuant to 10 CFR 50.80(a), no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application as supplemented and other information before the Commission, and relying upon the representations and agreements in the application as supplemented, the NRC staff concludes that the proposed indirect transfer of control of the license held by ENIP2 to Enexus, as described herein, will not affect the qualifications of ENIP2 as

holder of the IP1 license. The indirect transfer of control of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the NRC. Furthermore, the NRC staff concludes that the proposed corporate restructuring involving new intermediate and ultimate parent companies over ENO, as described herein, will not affect the qualifications of ENO as holder of the IP1 license. The indirect transfer of control of the license as held by ENO, to the extent affected by the proposed restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

The NRC staff concludes that the conversion of Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC would not constitute a direct transfer of the licenses to the extent held by ENO. Therefore, no consent to the proposed conversion is necessary.

The findings set forth above are supported by the NRC's safety evaluation dated July 28, 2008.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfer discussed above related to the proposed corporate restructuring and establishment of Enexus is approved, subject to the following conditions:

1. ENIP2 shall enter into the $700 million Support Agreement with Enexus Energy Corporation as described in the application, no later than the time the proposed transactions and indirect license transfer occurs. ENIP2 shall take no action to cause Enexus Energy Corporation, or its successors and assigns, to void, cancel, or modify the Support Agreement or cause it to fail to perform, or impair its performance under the Support Agreement, without prior written consent of the NRC. The Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Federal and State Materials and Environmental Management Programs or his designee. An executed copy of the Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transactions and the indirect license transfer. ENIP2 shall inform the NRC in writing anytime it draws upon the Support Agreement.

2. The ten separate support guarantees from various Entergy subsidiaries, which total $315 million, including the support guarantee relating to IP1, may be revoked when, and conditioned upon, implementation of the new $700 million Support Agreement at the time the proposed restructuring and indirect license transfer are completed.

3. Should the proposed corporate restructuring and establishment of Enexus not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated July 30, 2007, as supplemented by letters dated October 31, and December 5, 2007, and January 24, March 17, April 22, and May 2, 2008, and the NRC's safety evaluation dated July 28, 2008, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 28th day of July 2008.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–17784 Filed 8–1–08; 8:45 am]

BILLING CODE 7590–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; New Blanket Routine Use

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of New Blanket Routine Use.

SUMMARY: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Occupational Safety and Health Review Commission (OSHRC) is proposing in this notice the addition of a new blanket routine use. OSHRC's Privacy Act system-of-records notices are published in full at 72 FR 54301, 54301–03 (Sept. 24, 2007), and 71 FR 19556, 19556–67 (Apr. 14, 2006).

DATES: Comments must be received by OSHRC on or before September 15, 2008. The new blanket routine use will become effective on that date, without any further notice in the **Federal Register**, unless comments or government approval procedures necessitate otherwise.

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

- *E-mail: regsdocket@oshrc.gov*. Include ''PRIVACY ACT BLANKET ROUTINE USE'' in the subject line of the message.
- *Fax:* (202) 606–5417.
- *Mail:* One Lafayette Centre, 1120 20th Street, NW., Ninth Floor, Washington, DC 20036–3457.
- *Hand Delivery/Courier:* Same as mailing address.

Instructions: All submissions must include your name, return address and e-mail address, if applicable. Please clearly label submissions as ''PRIVACY ACT BLANKET ROUTINE USE.'' If you submit comments by e-mail, you will receive an automatic confirmation e-mail from the system indicating that we have received your submission. If, in response to your comment submitted via e-mail, you do not receive a confirmation e-mail within five working days, contact us directly at (202) 606–5410.

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney-Advisor, Office of the General Counsel, via telephone at (202) 606–5410, or via e-mail at *rbailey@oshrc.gov*.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4) and (11), requires OSHRC to publish in the **Federal Register** notice of any new routine use of an OSHRC system of records, and to provide an opportunity for interested persons to submit written data, views, or arguments to the agency. As detailed below, OSHRC is proposing the addition of one new blanket routine use.

On May 22, 2007, the Office of Management and Budget (''OMB'') issued a memorandum for the heads of Executive Departments and Agencies entitled ''Safeguarding Against and Responding to the Breach of Personally Identifiable Information.'' OMB directed agencies to develop and publish a routine use for disclosure of information in connection with response and remedial efforts in the event of a data breach. Therefore, OSHRC is adding a new blanket routine use that, in the event of a data breach, authorizes OSHRC to disclose relevant information

to appropriate agencies, entities, and persons. This routine use will serve to protect the interests of any individual affected by a breach because it will enable OSHRC to take the steps necessary to facilitate a timely and effective response to the breach, thereby improving its ability to prevent, minimize, or remedy any harm resulting from a compromise of data maintained in its systems of records.

OSHRC's proposed blanket routine use is published below. The first ten blanket routine uses, which remain in effect, were last published in full text on April 14, 2006 at 71 FR 19556, 19558–59.

Blanket Routine Uses

(11) A record from an OSHRC system of records may be disclosed as a blanket routine use to appropriate agencies, entities, and persons when:

(a) OSHRC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) OSHRC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by OSHRC or another agency or entity) that rely upon the compromised information; and

(c) The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OSHRC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

Dated: July 29, 2008.

Horace A. Thompson III,

Chairman.

[FR Doc. E8–17791 Filed 8–1–08; 8:45 am]

BILLING CODE 7600–01–P

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934; Release No. 58248/July 29, 2008]

Order Extending Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond to Market Developments

On July 15, 2008, the Commission issued an Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action to Respond to Market Developments (the ''Order'').[1] That Order took effect on July 21, 2008 and applies to the publicly traded securities of the substantial financial firms identified in Appendix A to the Order. The Commission updated the Order by an amendment dated July 18, 2008.[2] The Order, as amended (the ''Emergency Order''), is currently set to terminate on July 29, 2008.

Pursuant to its authority under Section 12(k)(2)(C) of the Securities Exchange Act of 1934 (''Exchange Act''), the Commission is extending the Emergency Order. Section 12(k)(2)(C) authorizes the Commission to extend an emergency order issued pursuant to Section 12(k)(2)(A) of the Exchange Act for a total effective period of up to 30 calendar days, if the Commission finds that the emergency still exists and determines that an extension is necessary in the public interest and for the protection of investors to maintain fair and orderly securities markets.

The Commission has carefully reevaluated the current state of the markets in consultation with officials of the Board of Governors of the Federal Reserve System, the Department of the Treasury and the Federal Reserve Bank of New York. We note that the Board of Governors of the Federal Reserve System, in authorizing the creation of the temporary Primary Dealer Credit Facility (''PDCF''), was required to determine that ''unusual and exigent circumstances'' exist and that the PDCF remains available to the financial firms identified in Appendix A. The Commission continues to remain concerned about the ongoing threat of market disruption and effects on investor confidence, and has determined in this environment that the standards under Section 12(k)(2) for extending the Emergency Order have been met. Accordingly, the Commission has determined that extending the Emergency Order is in the public interest and necessary to maintain fair and orderly securities markets and for the protection of investors. Following expiration of the Emergency Order, the Commission will proceed immediately to consideration of rulemaking, which would become effective after notice and comment.

Therefore, it is ordered, pursuant to Section 12(k)(2)(C) of the Exchange Act, that the Emergency Order is extended such that it will terminate at 11:59 p.m. EDT on Tuesday, August 12, 2008.

[1] *See* Securities Exchange Act Release No. 58166 (July 15, 2008).

[2] *See* Securities Exchange Act Release No. 58190 (July 18, 2008).

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17759 Filed 8–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Global Diamond Exchange, Inc.; Order of Suspension of Trading

July 31, 2008.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Global Diamond Exchange, Inc. (''Global Diamond'') because there is a lack of current and accurate information concerning its securities. Questions have arisen concerning the company's current business operations, control of the company, and the company's reliance on Rule 504 of Regulation D of the Securities Act of 1933 in conducting a distribution of its securities. Global Diamond, a company that has made no public filings with the Commission, is quoted on the Pink Sheets under the ticker symbol GBDX.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, July 31, 2008, through 11:59 p.m. EDT, on August 13, 2008.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17896 Filed 7–31–08; 11:15 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8947; 34–58236; File No. 4–564]

Roundtable on International Financial Reporting Standards

AGENCY: Securities and Exchange Commission.

ACTION: Notice of roundtable discussion; request for comment.

SUMMARY: On August 4, 2008 from 1 p.m. to 5 p.m., the Securities and Exchange Commission will hold a

roundtable to discuss International Financial Reporting Standards (''IFRS'') and to update the Commission on IFRS developments, including the experience with use of IFRS during the recent period of market turmoil. The roundtable will be organized as two panels. The panels will include investors, issuers, auditors, and other parties with experience in IFRS reporting. Additionally, representatives from the Financial Accounting Standards Board and the International Accounting Standards Board will be present as observers.

The roundtable will be held in the auditorium of SEC headquarters at 100 F Street, NE., Washington, DC. The roundtable will be open to the public with seating on a first-come, first-served basis. The roundtable discussions also will be available via webcast on the SEC's Web site at *http://www.sec.gov*. The roundtable agenda and other materials related to the roundtable, including a list of participants and moderators, will be accessible at *http://www.sec.gov/spotlight/ifrsroadmap.htm*. The Commission welcomes feedback regarding any of the topics to be addressed at the roundtable.

DATES: Comments should be received on or before August 11, 2008.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number 4–564 on the subject line.

Paper Comments

- Send paper comments in triplicate to Florence Harmon, Acting Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 4–564. This file number should be included on the subject line if e-mail is used. To help us 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/other.shtml*). Comments also will be available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Liza McAndrew Moberg, Professional Accounting Fellow, at (202) 551–5300, Office of the Chief Accountant, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6561.

SUPPLEMENTARY INFORMATION: The Commission welcomes feedback regarding any of the topics to be addressed at the roundtable. The panel discussions will focus on:

- An update on IFRS developments
- Experience with the use of IFRS in practice, including during the recent period of market turmoil, more specifically:
- Applying IFRS in the preparation of financial statements
- Working with financial statements prepared pursuant to IFRS

By the Commission.

Dated: July 29, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17763 Filed 8–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58244; File No. SR–FINRA–2008–029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change as Modified by Amendment No. 1 Thereto To Repeal NASD Rule 1130 and Incorporated NYSE Rules 405A, 440F, 440G and 477 as Part of the Process of Developing the Consolidated FINRA Rulebook

July 29, 2008.

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 June 16, 2008, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a 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 prepared by FINRA. On July 15, 2008, FINRA 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

FINRA proposes a rule change to repeal NASD Rule 1130 (Reliance on Current Membership List) and incorporated NYSE Rules 405A (Non-Managed Fee-Based Account Programs—Disclosure and Monitoring), 440F (Public Short Sale Transactions Effected on the Exchange), 440G (Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations) and 477 (Retention of Jurisdiction—Failure to Cooperate) as part of the process of developing the consolidated FINRA rulebook. The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and *http://www.finra.org.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

Background

As part of the process of developing the new consolidated rulebook (''Consolidated FINRA Rulebook''),[3] FINRA is proposing a rule change to repeal NASD Rule 1130 (Reliance on Current Membership List) and incorporated NYSE Rules 405A (Non-Managed Fee-Based Account Programs—Disclosure and Monitoring), 440F (Public Short Sale Transactions

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together referred to as the ''Transitional Rulebook''). The Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). Dual Members also must comply with NASD Rules. From more information about the rulebook consolidation process, *see* FINRA *Information Notice*, March 12, 2008 (''Rulebook Consolidation Process'').

Effected on the Exchange), 440G (Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations) and 477 (Retention of Jurisdiction—Failure to Cooperate) to eliminate duplicative provisions and remove requirements that are specific to the NYSE marketplace.

Proposal

NASD Rule 1130 (Reliance on Current Membership List)

The proposed rule change would repeal NASD Rule 1130, which provides that the Secretary of FINRA shall furnish every member a list of all members of FINRA, and shall currently keep every member advised, by amendments to the list or otherwise, of all new members and of all suspensions and cancellations of membership. The rule also requires that each member provide such information to its offices and associated persons as appropriate, and entitles members to rely on the information provided by FINRA for the purpose of complying with the rules.

FINRA is proposing to repeal NASD Rule 1130 because the requirement to furnish a membership list is substantially similar to provisions in Article IV, Section 4 of the FINRA By-Laws, which require the Secretary of FINRA to keep a currently accurate and complete membership roll, which shall at all times be available to all members, governmental authorities and the general public.[4]

NYSE Rule 405A (Non-Managed Fee-Based Account Programs—Disclosure and Monitoring)

The proposed rule change would repeal Incorporated NYSE Rule 405A, which prescribes certain requirements in connection with placing a customer in a fee-based brokerage account. Among other things, the rule requires a member to provide the customer, in advance of opening such an account, a detailed disclosure document that must include, at a minimum: A description of the services provided, eligible assets, fees charged, an explanation of how costs will be computed and/or the provision of cost estimates based on hypothetical portfolios, any conditions or restrictions imposed and a summary of the program's advantages and disadvantages. The rule also requires that the member make a determination that the program is appropriate for the customer, as well as ongoing monitoring of transactional activity by customers and procedures to follow up with customers whose account activity may be inappropriate in the context of the fee-based program.

Incorporated NYSE Rule 405A essentially codifies, in a more prescriptive fashion, guidance regarding the applicability of NASD Rule 2110 (Standards of Commercial Honor and Principles of Trade) to fee-based programs set forth in NASD *Notice to Members* 03–68. In general, the *Notice* requires members to have reasonable grounds to believe that a fee-based account is appropriate for a particular customer, taking into account the services provided, cost and customer preferences. The *Notice* further explains that a member must implement supervisory procedures to require a periodic review of fee-based accounts to determine whether they remain appropriate for their respective customers.

As a practical matter, these requirements may have little or no current applicability to brokerage accounts in light of a recent court holding that fee-based compensation constitutes ''special compensation'' that triggers the requirements of the Investment Advisers Act of 1940.[5] As a result of the court's decision, firms generally have converted fee-based brokerage accounts into advisory accounts or altered the compensation practices for such accounts (*e.g.* charging transaction-based commissions rather than a fixed fee or percentage of assets under management). However, both the *Notice* and Incorporated NYSE Rule 405A are aimed at fee-based accounts that do not constitute advisory accounts.

To the extent fee-based programs may continue to exist in some form in brokerage accounts, FINRA believes the *Notice* provides the necessary guidance for members to conform their conduct in accordance with the just and equitable principles of trade mandated by NASD Rule 2110, and further provides firms with the flexibility to adopt policies and procedures to achieve that compliance in a manner consistent with their business structure and practices.

NYSE Rules 440F (Public Short Sale Transactions Effected on the Exchange) and 440G (Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations)

The proposed rule change would repeal Incorporated NYSE Rules 440F and 440G. Incorporated NYSE Rule 440F requires members to report on Form SS20 round-lot short sale transactions in stocks or warrants effected on the NYSE floor for public customers. Incorporated NYSE Rule 440G requires members to report on Form 121 round-lot purchases or sales of stocks or warrants effected on the NYSE floor for members, allied members or member organizations. FINRA is proposing to repeal these rules as they are specific to the NYSE marketplace and relate solely to exchange transactions.

NYSE Rule 477 (Retention of Jurisdiction—Failure to Cooperate)

Both FINRA's By-Laws and Incorporated NYSE Rule 477 provide for retained jurisdiction over former members and associated persons for initiating disciplinary actions. Under Article IV, Section 6 and Article V, Section 4 of the FINRA By-Laws, a former member or former associated person, respectively, remains subject to the filing of a FINRA complaint for two years after termination based on conduct that commenced prior to the termination. In the case of former associated persons, the FINRA By-Laws also provide that the two-year period recommences if an amendment to a notice of termination filed within the original two-year period discloses possible misconduct. Incorporated NYSE Rule 477 provides for retained jurisdiction over a member or a member's employee for an unspecified time if, prior to termination or within one year following termination, NYSE serves written notice on such member or person that it is making inquiry into matters that occurred prior to termination.

Under the proposed rule change, FINRA would continue to use the retention of jurisdiction provisions set forth in the FINRA By-Laws and would repeal the corresponding provisions in Incorporated NYSE Rule 477.

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions

[4] Additionally, information about membership suspensions and cancellations is available to firms and the public through BrokerCheck and announced to members in a monthly report of disciplinary actions.

[5] *See Financial Planning Ass'n v. SEC*, 375 U.S. App. D.C. 389, 482 F.3d 481 (D.C. Cir. 2007)

of Section 15A(b)(6) of the Act,[6] which requires, among other things, that FINRA 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. FINRA believes that the proposed rule change would eliminate duplicative and unnecessary rules and advance the development of a more efficient and effective Consolidated FINRA Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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

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–FINRA–2008–029 on the subject line.

Paper comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2008–029. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2008–029 and should be submitted on or before August 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17788 Filed 8–1–08; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58237; File No. SR–ISE–2008–61]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Non-Customer Options Orders

July 29, 2008.

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 July 23, 2008, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by ISE. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding non-customer options orders. The text of the proposed rule change is as follows, with deletions in [brackets] and additions in *italics:*

Rule 717. Limitations on Orders

(a) *Reserved.* [Market Orders and Marketable Limit Orders.

Electronic Access Members shall not enter into the System, as principal or agent, Non-Customer market orders. Non-Customer limit orders that cross the market and that cannot be executed within two (2) minimum variations below the best bid or above the best offer cannot be executed on the Exchange. Such limit orders will be canceled by the System.]

(b) through (g) no change.

Supplemental Material to Rule 717

.01 through .02 no change.

* * * * *

Rule 805. Market Maker Orders

(a) Options Classes to Which Appointed. Market makers may not

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

place principal orders to buy or sell options in the options classes to which they are appointed under Rule 802, other than immediate-or-cancel orders, *market orders, fill-or-kill orders,* complex orders and block-size orders executed through the Block Order Mechanism pursuant to Rule 716(c). Competitive Market Makers shall comply with the provisions of Rule 804(e)(2)(ii) upon the entry of such orders if they were not previously quoting in the series.

(b) No change.

* * * * *

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

ISE proposes to amend its rules regarding non-customer options orders. ISE rules currently prohibit members from entering non-customer market orders and non-customer limit orders that cross the market and that cannot be executed within two minimum variations below the best bid or above the best offer. This limitation on non-customer trading was included in the ISE rules at the time ISE was launched. Specifically, in support of this limitation, in its Form 1 application seeking registration as a national securities exchange, ISE represented that, in an electronic market, non-customer market orders have the potential to create market volatility by trading at different price levels until their order is fully executed. ISE further noted that, without this limitation, non-customers would be able to use large-size orders to quickly take out ISE's entire order book without giving other market participants an opportunity to react.[5] Also, at the time this restriction was adopted, there were various limitations imposed on non-customer trading. For example, displayed quotes were firm only for public customer orders. Since that time, electronic options trading has evolved. With the adoption of trade-through protection under the intermarket linkage, every order must be executed at the best quoted price. Further, ISE has also removed restrictions on non-customer trading. For example, Electronic Access Members (''EAMs'') may now submit non-customer limit orders regardless of the size of the order where previously EAMs were prohibited from submitting orders for non-customers that caused ISE's best bid and offer to be for less than 10 contracts.[6] The Exchange does not believe there is any reason to maintain the current restriction on non-customer market and marketable limit orders, and therefore proposes to delete Rule 717(a) in its entirety.

The Exchange also proposes to clarify in Rule 805(a) that market makers may enter market orders and fill-or-kill orders in the options classes to which they are appointed. The limitation on the types of orders market makers can enter in their appointed classes is intended to prevent market makers from having both standing limit orders and quotes in the same options class, which is why the rule specifically allows immediate-or-cancel orders. Like immediate-or-cancel orders, fill-or-kill orders and market orders are either filled immediately or automatically cancelled.[7] Therefore, the Exchange believes that allowing ISE market makers to utilize these orders types is consistent with the Exchange's practice of not allowing market makers to have both standing limit orders and quotes in the same options class.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's[9] requirements that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the proposed rule change will permit members to enter non-customer market orders and non-customer limit orders and thus, enable the Exchange to compete effectively with other options exchanges who do not have a similar restriction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public

[5] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (File No. 10–127) (In the Matter of the Application of The International Securities Exchange LLC for Registration as a National Securities Exchange; Findings and Opinion of the Commission).

[6] *See* Securities Exchange Act Release No. 49602 (April 22, 2004), 69 FR 23841 (April 30, 2004) (SR–ISE–2003–26).

[7] ISE Rule 715 (Types of Orders) defines a fill-or-kill order as a limit order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled. A market order is defined in Rule 715 as an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange. Pursuant to ISE Rule 714, incoming non-customer orders (which includes fill-or-kill and market orders entered by market makers) that cannot be automatically executed on ISE because there is a better price on another options exchange are automatically rejected.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing notice requirement.

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–ISE–2008–61 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–61. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of ISE. 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–ISE–2008–61 and should be submitted on or before August 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17762 Filed 8–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58235; File No. SR–NYSE–2008–59]

Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing of Proposed Rule Change To Reduce the Period Within Which Companies Must Issue a Press Release After the Exchange Notifies Them That They Are Noncompliant With Exchange Listing Requirements

July 28, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 22, 2008, New York Stock Exchange, LLC (the ''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 proposes to amend Sections 802.02 and 802.03 of the Exchange's Listed Company Manual (the ''Manual'') to provide that the Exchange will require a U.S. company, upon receiving written notification that it has fallen below the Exchange's listing standards, to issue a press release within the same amount of time as allotted by the SEC for the company to disclose such an occurrence, but in no event later than four business days after receipt of such notification, and will require a non-U.S. company to issue a press release within 30 days of receiving written notification from the Exchange that it has fallen below the Exchange's listing standards. The text of the proposed rule change is available at *http://www.nyse.com,* the NYSE, and the Commission's Public Reference Room.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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 Sections 802.02 and 802.03 of the Manual to provide that the Exchange will require a U.S. company, upon receipt of written notification that it has fallen below the Exchange's listing standards, issue a press release within the amount of time allotted by the SEC for companies to disclose such an occurrence. The Exchange will also require a non-U.S. company to issue a press release within 30 days of receiving written notification that it has fallen below the Exchange's listing standard.

Currently, Section 802.02 of the Manual requires a U.S. company to issue a press release within 45 days of receiving written notification from the Exchange that it has fallen below the Exchange's listing standards. However, SEC rules require the company to file a Form 8–K giving notice of that event within four business days of being notified by the Exchange.[3] The Exchange believes that its own requirement is too long in light of the much earlier public notice required by the Form 8–K rule and that it is appropriate for the Exchange to issue a press release on the subject itself if the company has not acted within the period provided by Form 8–K and in any event no later than four business days after receipt of notification from the Exchange. The Exchange notes that companies that are incorporated in jurisdictions outside the United States but that do not qualify as foreign private

[3] Item 3.01 of Form 8–K requires a registrant to file a Form 8–K within four business days of receipt of notice from the national securities exchange that maintains the principal listing for any class of the registrant's common equity that the registrant or such class of the registrant's securities does not satisfy a rule or standard for continued listing on the exchange.

issuers are treated as domestic companies for purposes of Section 802.02.

Currently, Section 802.03 of the Manual requires a non-U.S. company to issue a press release within 90 days of receiving written notification from the Exchange that it has fallen below the Exchange's listing standards. While foreign private issuers are not subject to the Form 8–K requirement imposed on domestic issuers, the Exchange believes that 90 days is an excessive period to give companies to make such a material disclosure. Based on our experience with these companies, 30 days would be more than sufficient. As such, the Exchange proposes to shorten from 90 to 30 days the period within which foreign private issuers must issue a press release with regard to a notification by the Exchange of noncompliance. If the issuer does not issue a press release within that 30-day period, the Exchange will do so.

While Sections 802.02 and 802.03 establish maximum time periods for the issuance of press releases, the Exchange believes that companies should issue their press releases concerning any notice of noncompliance they receive from the Exchange as soon as possible after receipt of such notification and should not wait until close to the end of the permitted period before doing so.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) [4] 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 a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes that the proposed amendment protects investors and the public interest by ensuring the prompt disclosure of material information with respect to listed companies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

[4] 15 U.S.C. 78f(b)(5).

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.

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 Exchange 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 Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2008–59 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–59. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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–NYSE–2008–59 and should be submitted on or before August 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17761 Filed 8–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58234; File No. SR–Phlx–2008–55]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Extension of Pilot Programs in Connection With Linkage P/A Orders

July 25, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 18, 2008, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Phlx, pursuant to Section 19(b)(1) of the Act [3] and Rule 19b–4 thereunder,[4] proposes to extend for a one-year period until July 31, 2009, its current pilot programs relating to: (1) An option transaction charge credit of $0.21 per contract for Exchange options specialist units [5] that incur Phlx option transaction charges when a customer order is delivered electronically via Phlx XL [6] or via the Exchange's Options Floor Broker Management Systems (''FBMS''),[7] and is then executed via the Intermarket Option Linkage (''Linkage'') [8] as a Principal Acting as Agent Order (''P/A Order''); and (2) the Floor Broker Linkage P/A fee and Options Specialist Unit Credit, which charges floor brokers an amount equal to the transaction fee(s) assessed on options specialist units by another exchange in connection with customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A Orders. The Exchange then provides to options specialist units a credit in an amount equal to the transaction fee(s) assessed on them by another exchange in connection with executing customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A Orders. There are no substantive changes to the pilot programs as they currently operate, other than to extend their operation through July 31, 2009.[9]

While changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated the changes to be in effect for transactions settling on or after July 31, 2008.[10] The text of the proposed rule change is available at *www.phlx.com*, the Exchange, and 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 Phlx included statements concerning the purpose of, and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently provides for an option transaction charge credit of $0.21 per contract for Exchange options specialist units that incur Phlx option transaction charges when a customer order is delivered electronically via Phlx XL or via FBMS and then is executed via Linkage as a P/A Order. In addition, the Exchange charges floor brokers an amount equal to the transaction fee(s) assessed on options specialist units by another exchange in connection with customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A Orders. Options specialist units are then credited an amount equal to the transaction fee(s) assessed on them by another exchange in connection with executing customer orders that are delivered to the limit order book via FBMS and executed via Linkage as a P/A Order.

The purpose of extending the current pilot programs discussed above is to encourage the use of Linkage, remain competitive with other exchanges with respect to the assessment of Linkage-related fees and to help alleviate the potential economic burden of multiple transaction charges imposed on Exchange specialist units in connection with routing these types of Linkage orders. Additionally, the purpose of assessing a fee on floor brokers who send customer orders that are delivered to the limit order book via FBMS and executed via Linkage as P/A Orders is to more equitably assess the applicable transaction fee(s) on the member originally entering the order to be executed. Floor brokers may choose to route these orders through other systems and not place these orders on the limit order book.

The above-referenced pilot programs are currently scheduled to expire on July 31, 2008.[11] This proposal would extend the pilot programs for another year, through July 31, 2009.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(4) of the Act [13] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. These pilot programs, in part, help alleviate the undue financial burden of multiple transaction charges that are incurred by specialist units in connection with P/A orders executed via Linkage. Assessing a fee on floor brokers and giving a corresponding credit to specialist units allows for the transaction fee(s) to be assessed on the member who submits the order and for the credit to be given to the specialist unit that routed the order to another exchange in order to obtain the National Best Bid or Offer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [14] and

[3] 15 U.S.C. 78s(b)(1).

[4] 7 CFR 240.19b–4.

[5] The Exchange uses the terms ''specialists'' and ''specialist units'' interchangeably herein.

[6] *See* Exchange Rule 1080.

[7] FBMS is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. FBMS also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. *See* Exchange Rule 1080, Commentary .06.

[8] Linkage is governed by the Options Linkage Authority under the conditions set forth under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (the ''Plan'') approved by the Commission. The registered U.S. options markets are linked together on a real-time basis through a network capable of transporting orders and messages to and from each market.

[9] *See* e-mail dated July 24, 2008 to the Commission from Cynthia Hoekstra, Vice President, Phlx.

[10] This proposal is scheduled to be in effect for the same time period as a pilot program relating to fees for Linkage Principal Orders and P/A Orders. *See* Securities Exchange Act Release No. 58144 (July 11, 2008), 73 FR 41394 (July 18, 2008) (SR–Phlx–2008–49).

[11] *See* Securities Exchange Act Release Nos. 57608 (April 2, 2008), 73 FR 19128 (April 8, 2008) (SR–Phlx–2008–22); 57434 (March 5, 2008), 73 FR 13269 (March 12, 2008) (SR–Phlx–2008–19); and 56101 (July 19, 2007), 72 FR 40920 (July 25, 2007) (SR–Phlx–2007–50).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

subparagraph (f)(2) of Rule 19b–4 thereunder.[15] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the 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–Phlx–2008–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Florence E. Harmon, Acting Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2008–55. 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, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2008–55, and should be submitted on or before August 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17760 Filed 8–1–08; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 240.19b–4(f)(2).

[16] 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 October 3, 2008.

ADDRESSES: Send all comments regarding whether these information collections are 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 collections, to Cynthia Pitts, Administrative Officer, Office of Disaster, Small Business Administration, 409 3rd Street, SW., 6th floor, Wash., DC 20416.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Administrative Officer, Office of Disaster, 202–205–7570 *cynthia.pitts@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@ba.gov.*

SUPPLEMENTARY INFORMATION: The Small Business Administration is authorized to make loans to victims of declared disasters for the purpose of restoring their damaged property to, as near as possible, pre-disaster conditions. SBA's Office of Disaster Assistance provides customer service to individuals and businesses on the phone and via email through its Disaster Assistance Customer Service Center and in-person through its Field Operations Centers.

Title: ''Disaster Business Loan Application.''

Description of Respondents: Application for benefits (loan) used to determine eligibility and credit worthiness of Small Business or not-for-profit organizations who seek Federal Assistance in a declared disaster. Respondents are disaster victims seeking disaster assistance.

Form Numbers: 5 & 1368.

Annual Responses: 9,510.

Annual Burden: 22,208.

Title: ''Disaster Business Loan Application.''

Description of Respondents: Application for benefits (loan) used to determine eligibility and credit worthiness of Small Business or not-for-profit organizations who seek Federal Assistance in a declared disaster. Respondents are disaster victims seeking disaster assistance.

Form Number: 5C.

Annual Responses: 49,862.

Annual Burden: 74,793.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E8–17834 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Disaster Declaration #11340 and #11341; Georgia Disaster #GA–00014

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Georgia dated 07/28/2008.

Incident: Severe Storms and Tornadoes.

Incident Period: 05/20/2008.

Effective Date: 07/28/2008.

Physical Loan Application Deadline Date: 09/26/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 04/28/2009.

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 Administrator's disaster declaration, 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: Cherokee.
Contiguous Counties: Georgia: Bartow, Cobb, Dawson, Forsyth, Fulton, Gordon, Pickens.

	Percent
The Interest Rates are:.	
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.687
Businesses With Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11340 C and for economic injury is 11341 0.

The State which received an EIDL Declaration # is Georgia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 28, 2008.

Jovita Carranza,

Acting Administrator.

[FR Doc. E8–17806 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11308]

Illinois Disaster Number IL–00016

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Illinois (FEMA—1771—DR), dated 06/24/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/01/2008 through 07/22/2008.

EFFECTIVE DATE: 07/22/2008.

Physical Loan Application Deadline Date: 08/25/2008.

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 Private Non-Profit organizations in the State of Illinois, dated 06/24/2008, is hereby amended to establish the incident period for this disaster as beginning 06/01/2008 and continuing through 07/22/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17768 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11306 and #11307]

Illinois Disaster Number IL–00015

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 Illinois (FEMA–1771–DR), dated 06/25/2008.

Incident: Severe Storms, and Flooding.

Incident Period: 06/01/2008 and continuing through 07/22/2008.

EFFECTIVE DATE: 07/22/2008.

Physical Loan Application Deadline Date: 08/25/2008.

EIDL Loan Application Deadline Date: 03/23/2009.

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 ILLINOIS, dated 06/25/2008 is hereby amended to establish the incident period for this disaster as beginning 06/01/2008 and continuing through 07/22/2008.

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. E8–17773 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11309]

Missouri Disaster Number MO–00029

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of MISSOURI (FEMA–1773–DR), dated 06/25/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/01/2008 through 07/18/2008.

EFFECTIVE DATE: 07/25/2008.

Physical Loan Application Deadline Date: 08/25/2008

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 Private Non-Profit organizations in the State of MISSOURI, dated 06/25/2008, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Audrain, Carroll, Chariton, Christian, Howard, Linn, Macon, Miller, Morgan, Pettis, Ray, Shelby, Stone, Sullivan, Taney, Vernon.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17765 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11338 and #11339]

Ohio Disaster #OH–00014

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Ohio dated 07/23/2008.

Incident: Apartment Building Fire.

Incident Period: 07/05/2008.

EFFECTIVE DATE: 07/23/2008.

Physical Loan Application Deadline Date: 09/22/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 04/23/2009.

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 Administrator's disaster declaration, 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: Lucas.

Contiguous Counties:

Ohio: Fulton, Henry, Ottawa, Wood.

Michigan: Lenawee, Monroe.

	Percent
The Interest Rates are:	
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.687
Businesses with Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11338 5 and for economic injury is 11339 0.

The States which received an EIDL Declaration # are Ohio, Michigan.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

July 23, 2008.

Jovita Carranza,

Acting Administrator.

[FR Doc. E8–17771 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11288 and #11289]

Wisconsin Disaster Number WI–00013

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 7.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Wisconsin (FEMA–1768–DR), dated 06/14/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 06/05/2008 and continuing through 07/25/2008.

Effective Date: 07/25/2008.

Physical Loan Application Deadline Date: 08/13/2008.

EIDL Loan Application Deadline Date: 03/13/2009.

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 Wisconsin, dated 06/14/2008 is hereby amended to establish the incident period for this disaster as beginning 06/05/2008 and continuing through 07/25/2008.

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. E8–17769 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11320]

Wisconsin Disaster Number WI–00014

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Wisconsin (FEMA—1768—DR), dated 06/14/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 06/05/2008 through 07/25/2008.

EFFECTIVE DATE: 07/25/2008.

Physical Loan Application Deadline Date: 08/13/2008.

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 Private Non-Profit organizations in the State of Wisconsin, dated 06/14/2008, is hereby amended to establish the incident period for this disaster as beginning 06/05/2008 and continuing through 07/25/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17770 Filed 8–1–08; 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/debt security financing to Goodmail Systems, Inc., 2465 Latham Street, Mountain View, CA 94040.

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 Goodmail Systems, Inc., and therefore this transaction is considered a financing of an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate

Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: July 3, 2008.

A. Joseph Shepard,

Associate Administrator for Investment.

[FR Doc. E8–17807 Filed 8–1–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Draft Alternatives Working Paper for the Proposed Southern Nevada Supplemental Airport, Las Vegas, Clark County, NV

AGENCY: Federal Aviation Administration.

ACTION: Notice of Availability of Draft Alternatives Working Paper.

SUMMARY: The Federal Aviation Administration (FAA) in cooperation with the Bureau of Land Management (BLM) is issuing this notice to advise the public the Draft Alternatives Working Paper for the Draft EIS will be made available for public comment pursuant to section 304 of the *Vision 100 Century of Aviation Act of 2003* (Pub. L. 108–176) [49 U.S.C. 47171(I)]. The Draft Alternatives Working Paper has been prepared for the construction and operation of the proposed Southern Nevada Supplemental Airport which lies partially within the base floodplain of a portion of Roach Dry Lake located along Interstate Highway 15 about 30 miles south of Las Vegas, Clark County, Nevada. FAA and BLM are seeking comments on the Draft Alternatives Working Paper.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Project Manager, Southern Nevada Supplemental Airport EIS, AWP–610.1, Airports Division, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, Los Angeles, California 90009–2007, Telephone: 310/725–3615. Comments on the draft Alternatives Working Paper should be submitted to the address above and must be received no later than 5 p.m. Pacific Standard Time, Friday, October 3, 2008.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) in cooperation with the Bureau of Land Management (BLM) is preparing a Draft Environmental Impact Statement for the proposed Southern Nevada Supplemental Airport (SNSA) pursuant to the National Environmental Policy Act of 1969. The need to prepare an Environmental Impact Statement (EIS) is based on the procedures described in FAA Order 1050.1E, *Environmental Impacts: Policies and Procedures*, FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, and *BLM NEPA Handbook H–1790–1*. Further, the FAA and BLM are preparing this EIS jointly pursuant to the *Ivanpah Valley Airport Lands Transfer Act of 2000*, (Pub. L. 106–362). Clark County proposes to build the airport along Interstate Highway 15 north of the Nevada/California border about 30 miles south of Las Vegas, between Primm and Jean in Clark County, Nevada. The purpose of the proposed airport is to provide additional capacity to accommodate the forecasted growth in air carrier aircraft operations and aviation passenger demand into the Las Vegas area. This airport would supplement existing capacity at McCarran International Airport (LAS).

FAA and BLM are making the Draft Alternatives Working Paper available to the public and governmental agencies for review and comment. This working paper contains information that the FAA and BLM will include into the Alternatives Section of the Draft EIS. FAA and BLM have developed the Alternatives Working Paper based on information disclosed in the Purpose and Need Working Paper that was made available to the public on January 25, 2008 (73 FR 4666–4667). The following general candidate alternative topics are included in the Draft Alternatives Working Paper: No Action, Other Modes of Transportation, Air Traffic Demand Management Strategies, Use of Airfield and Airspace Technologies, Expansion of McCarran International Airport, Use of Other Existing Airports in the Region, and Develop a New Airport. Several of these candidate alternatives have multiple sub-candidates that are evaluated in the Draft Alternatives Working Paper.

Pursuant to U.S. Department of Transportation Order 5650.2, *Floodplain Management and Protection*, the FAA is also notifying the public that Clark County's proposed action may create a significant encroachment into the base floodplain for Roach Dry Lake. Roach Dry Lake is located east of Interstate 15 north of Primm and South of Jean, Nevada. Roach Dry Lake is the terminus of various unnamed ephemeral and semi-permanent streams. Roach Dry Lake also receives storm-related surface sheet flow from alluvial fans and surrounding mountainous areas. Clark County's proposed action would modify the shape of the dry lake bed and its margin terrace to accommodate the construction of the proposed airport. The proposed airport would be constructed on an earthen platform that would elevate the new airport above the water level that occurs in the dry lake following a storm event. This earthen platform may affect the natural and beneficial floodplain value of Roach Dry Lake by altering the total surface area usable for ground water infiltration and recharge. FAA and BLM expect the function of the Roach Dry Lake playa to be more clearly defined following completion of the Affected Environment section of the Draft Environmental Impact Statement. Clark County is developing a flash flood/drainage plan to manage storm water runoff into Roach Dry Lake that will be evaluated in the Draft Environmental Impact Statement. Clark County is seeking federal approval of the Airport Layout Plan for the proposed new airport. FAA anticipates Clark County seeking federal funding assistance for the proposal as well. However, FAA has not received an application for federal assistance to construct the proposed new airport from Clark County.

The Draft Alternatives Working Paper also identifies other candidate alternatives that may have encroachments into base floodplains. FAA and BLM will consider all comments received for the purpose of developing future documents supporting the Draft EIS. FAA and BLM will accept comments on the Draft Alternatives Working Paper until 5 p.m. Pacific Standard Time, Friday, October 3, 2008.

Copies of the Draft Alternatives Working Paper are available for public review at the following locations during normal business hours:

U.S. Department of Transportation, Federal Aviation Administration, Western-Pacific Region, Office of the Airports Division, 15000 Aviation Boulevard, Hawthorne, California 90261.

U.S. Department of Transportation, Federal Aviation Administration, National Headquarters, Office of Airports, Planning and Environmental Needs Division, 800 Independence Avenue, SW., Washington, DC 20591.

Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines, Las Vegas, Nevada 89130.

The document is also available for public review at the following libraries and other locations and at the following Web site: *http://www.snvairporteis.com*:

Boulder City Public Library, 701 Adams Boulevard, Boulder City, Nevada 89005.

Gibson Library, 280 South Water Street, Henderson, Nevada 89015–7288.
Pittman Library, 1608 Moser Drive, Henderson, Nevada 89015–4323.
Paseo Verde Library, 280 South Green Valley Parkway, Henderson, Nevada 89012–2301.
Malcolm Library, 2960 Sunridge Heights Parkway, Henderson, Nevada 89052.
Clark County Law Library, 309 South 3rd Street, Suite 400, Las Vegas, Nevada 89155.
Lied Library—UNLV, 4505 Maryland Parkway, Las Vegas, Nevada 89104.
UNLV Libraries Government Publications, 4505 Maryland Parkway, Las Vegas, Nevada 89101.
Nevada State Library and Archives, 716 N. Carson Street, Suite B, Carson City, Nevada 89701.
North Las Vegas Library District, 2300 Civic Center Drive, North Las Vegas, Nevada 89030–5839.
Aliante Branch Library, 2400 Deer Springs Way, North Las Vegas, Nevada 89084.
Pahrump Community Library District, 701 East Street, Pahrump, Nevada 89048–0578.
White Pine County Library, 950 Campton Street, Ely, Nevada 89301–1965.
Clark County Library, 1401 East Flamingo Road, Las Vegas, Nevada 89119–5256.
Goodsprings Library, 365 West San Pedro Avenue, Goodsprings, Nevada 89019–0667.
Lincoln County Library, 63 Main Street, P.O. Box 330, Pioche, Nevada 89043–0330.
Alamo Branch Library, 100 South First West, P.O. Box 239, Alamo, Nevada 89001–0239.
Caliente Branch Library, 100 Depot Avenue, P.O. Box 306, Caliente, Nevada 89008–0306.
Searchlight Library, 200 Michael Wendal Way, Searchlight, Nevada 89046.
Sandy Valley Library, 650 W. Quartz Avenue, Sandy Valley, Nevada 89019.
Mt. Charleston Library, 1252 Aspen Avenue, Las Vegas, Nevada 89124.
Moapa Valley Library, 350 N. Moapa Valley Blvd., Overton, Nevada 89040.
Laughlin Library, 2840 S. Needles Hwy., Laughlin, Nevada 89020.
Blue Diamond Library, 14 Cottonwood Drive, Blue Diamond, Nevada 89004.
Moapa Town Library, 1340 E. Highway 168, Moapa, Nevada 89025.
Indian Springs Library, 715 Gretta Lane, Indian Springs, Nevada 89018.
Bunkerville Library, 150 W. Virgin Street, Bunkerville, Nevada 89007.
Mesquite Library, 121 W. First St., Mesquite, Nevada 89027.
Enterprise Library, 25 E. Shelbourne Way, Las Vegas, Nevada 89123.
Green Valley Library, 2797 N. Green Valley Parkway, Henderson, Nevada 89014.
Las Vegas Library, 833 Las Vegas Blvd. North, Las Vegas, Nevada 89101.
Meadows Library, 300 W. Boston Ave., Las Vegas, Nevada 89102.
Rainbow Library, 3150 N. Buffalo Drive, Las Vegas, Nevada 89128.
Sahara West Library, 9600 W. Sahara Avenue, Las Vegas, Nevada 89177.
Spring Valley Library, 4280 S. Jones Blvd, Las Vegas, Nevada 89103.
Sunrise Library, 5400 Harris Avenue, Las Vegas, Nevada 89110.
Summerlin Library, 1771 Inner Circle Drive, Las Vegas, Nevada 89134.
West Charleston Library, 6301 W. Charleston Blvd., Las Vegas, Nevada 89146.
West Las Vegas Library, 951 W. Lake Mead Blvd., Las Vegas, Nevada 89106.
Whitney Library, 5175 E. Tropicana Avenue, Las Vegas, Nevada 89106.
University of Nevada Las Vegas, 4505 Maryland Parkway Box 457001, Building LLB 1173, MS 7033, Las Vegas, Nevada 89154–7001.
William S. Boyd School of Law, UNLV, 4505 Maryland Parkway, Box 451003, Las Vegas, Nevada 89154–1003.
Nevada State College, 1125 Nevada State Drive, Henderson, Nevada 89015.

The Draft Alternatives Working Paper will be available for public comment for 30 days. Written comments on the Draft Alternatives Working Paper should be submitted to the address above under the heading **FOR FURTHER INFORMATION CONTACT** and must be received no later than 5 p.m. Pacific Standard Time, Friday, October 3, 2008.

Issued in Hawthorne, California on July 29, 2008.

Mark A. McClardy,

Manager, Airports Division, Western—Pacific Region, AWP–600.

[FR Doc. E8–17897 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–33]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 25, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0718 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frances Shaver, (202) 267–9681, or Katrina Holiday, (202) 267–3603, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 30, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2008–0718.

Petitioner: Hancock County—Bar Harbor Airport.

Section of 14 CFR Affected: § 139.319(a).

Description of Relief Sought: To allow Hancock County—Bar Harbor Airport to operate without meeting the requirements for aircraft rescue and fire fighting equipment manned and ready to respond for air carrier operations.

[FR Doc. E8–17824 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–30]

Petition for Exemption; Summary of Petition Received; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received; correction.

SUMMARY: This notice corrects the docket number of a previously-published petition for exemption. It also extends the comment period for the petition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 25, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA2007–0323, using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at (202) 493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair (425) 227–1556, Transport Airplane Directorate, ANM–113, Federal Aviation Administration, 1601 Lind Avenue, SE., Renton, WA 98055–4056, or Frances Shaver (202) 267–9681, Office of Rulemaking, ARM–204, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2008 (73 FR 43484), the FAA published a petition for exemption from the Boeing Company (PE–2008–30). However, the FAA docket number listed for this petition was incorrect. This notice corrects the docket number. In addition, the FAA is extending the comment period for this petition until August 25, 2008 since the lack of a correct docket number may have prevented interested parties from being able to submit their comments.

The Correction

1. In the issue of July 25, 2008, on page 43484, in the second column, in the **ADDRESSES** section, the Docket Number should read FAA–2007–0323.

2. On page 43484, third column, under the heading ''Petition for Exemption'', the Docket number should read FAA–2007–0232.

Issued in Washington, DC on July 30, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2007–0323.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: §§ 25.857(e), 25.785(j), and 25.1447(c)(1).

Description of Relief Sought: The Boeing Company requests exemption from the airworthiness standards for transport category airplanes that would allow up to eleven (11) supernumeraries to access the main deck cargo compartment on a Boeing Model 777F airplane for all types of cargo operations, namely: (1) Cargo only, (2) live animals only, and (3) mixed cargo consisting of live animals and regular cargo.

[FR Doc. E8–17823 Filed 8–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Entities Pursuant to Executive Order 13464

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of seven newly-designated entities whose property and interests in property are blocked pursuant to Executive Order 13464 of April 30, 2008, ''Blocking Property and Prohibiting Certain Transactions Related to Burma.''

DATES: The designation by the Director of OFAC of seven entities identified in this notice, pursuant to Executive Order 13464, is effective July 29, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW. (Treasury Annex), Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Information about these designations and additional information concerning OFAC is available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On April 30, 2008, the President signed Executive Order 13464 (the ''Order'') pursuant to, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13047 of May 20, 1997, and expanded in Executive Order 13448 of October 18, 2007, to address the Government of

Burma's continued repression of the democratic opposition in Burma. The President identified three entities as subject to the economic sanctions in the Annex to the Order.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of United States persons, of the persons listed in the Annex, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (b)(i)–(b)(iii) of Section 1. On July 29, 2008, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (b)(i)–(b)(iii) of the Order, the following seven entities, whose names have been added to the list of Specially Designated Nationals and whose property and interests in property are blocked pursuant to Executive Order 13464:

Entities

1. CO-OPERATIVE EXPORT-IMPORT ENTERPRISE (a.k.a. CEIE), 259/263 Bogyoke Aung San Street, Yangon, Burma [BURMA]

2. MYANMAR ECONOMIC CORPORATION (a.k.a. MEC), 74–76 Shwedagon Pagoda Road, Dagon Township, Yangon, Burma [BURMA]

3. MYANMAR IMPERIAL JADE CO., LTD, 22 Sule Pagoda Road, Mayangone Township, Yangon, Burma [BURMA]

4. MYANMAR RUBY ENTERPRISE CO. LTD. (a.k.a. MYANMAR RUBY ENTERPRISE), 24/26 Sule Pagoda Road, Kyauktada Township, Yangon, Burma [BURMA]

5. MYAWADDY BANK LTD. (a.k.a. MYAWADDY BANK), 24/26 Sule Pagoda Road, Yangon, Burma [BURMA]

6. MYAWADDY TRADING LTD. (a.k.a. MYAWADDY TRADING CO.), 189–191 Maha Bandoola Street, Botataung P.O, Yangon, Burma [BURMA]

7. UNION OF MYANMAR ECONOMIC HOLDINGS LIMITED (a.k.a. MYANMAR ECONOMIC HOLDINGS LIMITED; a.k.a. UMEH; a.k.a. UNION OF MYANMAR ECONOMIC HOLDINGS COMPANY LIMITED), 189–191 Maha Bandoola Road, Botahtaung Township, Yangon, Burma [BURMA]

Dated: July 29, 2008.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E8–17745 Filed 8–1–08; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Entities Pursuant to Executive Order 13464

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of three newly designated entities whose property and interests in property are blocked pursuant to Executive Order 13464 of April 30, 2008, ''Blocking Property and Prohibiting Certain Transactions Related to Burma.''

DATES: The designation by the Director of OFAC of three entities identified in this notice, pursuant to Executive Orders 13464, is effective July 29, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW. (Treasury Annex), Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Information about these designations and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On April 30, 2008, the President signed Executive Order 13464 (the ''Order'') pursuant to, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13047 of April 20, 1997, and expanded in Executive Order 13448 of October 18, 2007, to address the Government of Burma's continued repression of the democratic opposition. The President identified three entities as subject to the economic sanctions in the Annex to the Order.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of United States persons, of the persons listed in the Annex, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (b)(i)–(b)(iii) of Section 1. On July 29, 2008, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (b)(i)–(b)(iii) of the Order, the following three entities, whose names have been added to the list of Specially Designated Nationals and whose property and interests in property are blocked pursuant to Executive Order 13464:

Entities

1. NO. 1 MINING ENTERPRISE, 90 Kanbe Road, Yankin, Rangoon (Yangon, Burma; (ENTITY) [BURMA].

2. NO. 2 MINING ENTERPRISE, 90 Kanbe Road, Yankin, Rangoon (Yangon, Burma; (ENTITY) [BURMA].

3. NO. 3 MINING ENTERPRISE, 90 Kanbe Road, Yankin, Rangoon (Yangon, Burma; (ENTITY) [BURMA].

Dated: July 29, 2008.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E8–17747 Filed 8–1–08; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2008–XX

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2008–XX, Exempt Organizations Voluntary Compliance Program (EOVCP).

DATES: Written comments should be received on or before October 3, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the revenue procedure should be directed to Allan

Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exempt Organizations Voluntary Compliance Program (EOVCP).

OMB Number: 1545–XXXX.

Revenue Procedure Number: Revenue Procedure 2008–XX.

Abstract: This information collection is needed to offer a voluntary compliance program of limited time to non-filers of Form 990 Series. The objective is to enhance voluntary compliance with respect to reporting and filing obligations under sections 26 U.S.C. 6033 and 6011 for entities exempt under 26 U.S.C. 501(a). The data collected will be used by the Tax Exempt and Government Entities division of the Internal Revenue Service to help certain exempt organizations meet their reporting and filing obligations.

Current Actions: This is a new revenue procedure.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 30,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 28, 2008.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E8–17829 Filed 8–1–08; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Monday,
August 4, 2008

Part II

National Archives and Records Administration

36 CFR Subchapter B
Federal Records Management; Revision; Proposed Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Subchapter B

[FDMS Docket NARA–08–0004]

RIN 3095–AB16

Federal Records Management; Revision

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: As part of its initiative to redesign Federal records management, NARA is revising and reorganizing the existing regulations on Federal records management to update records management strategies and techniques and to make the regulations easier to read, understand, and use. This proposed rule will affect Federal agencies.

DATES: Submit comments on or before October 3, 2008.

ADDRESSES: NARA invites interested persons to submit comments on this proposed rule. Please include ''Attn: 3095–AB16'' and your name and mailing address in your comments. Comments may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* Submit comments by facsimile transmission to 301–837–0319.
- *Mail:* Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Planning Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.
- *Hand Delivery or Courier:* Deliver comments to 8601 Adelphi Road, College Park, MD.

FOR FURTHER INFORMATION CONTACT: Laura McCarthy at telephone number 301–837–3023 or Nancy Allard at telephone number 301–837–1477. They can also be reached at fax number 301–837–0319.

SUPPLEMENTARY INFORMATION:

Background

Overview

On July 31, 2003, the National Archives and Records Administration (NARA) issued our Strategic Directions for Federal Records Management. In that document we set out our goals, strategies, and tactics for redesigning Federal records management to serve agencies in the 21st century. This proposed rule reflects those strategic directions and the initiatives that NARA has undertaken in support of the redesigned Federal records management program. It does not reflect pending 2008 legislation relating to management of electronic messages that was introduced after this proposed rule was developed; NARA will further revise proposed Part 1236 in a separate rulemaking should that legislation go into effect.

On March 15, 2004, at 69 FR 12100, NARA published an Advanced Notice of Proposed Rulemaking (ANPRM) requesting comments about a proposal to rewrite and restructure the Federal records management regulations contained in 36 CFR Chapter XII, Subchapter B. In response, we received remarks from one member of the public, seven Federal records management professionals, one records management contractor working for a Federal agency, one retired records management consultant, and one records management consultant.

Overall, the comments were in favor of our proposal. Many commented that it was time for an update and that the regulations needed to incorporate changes to address the evolution of technology. They also recommended that we use *ISO 15489–1:2001, Records management—Part 1: General,* as guidance for the entire revision, not just the sections pertaining to electronic records management.

In rewriting and restructuring the regulation, we incorporated plain language principles with the intent of making the regulations easier to read, understand, and use. We also organized the regulations according to the lifecycle concept of records, while acknowledging that the lifecycle is not linear. As recommended in the comments, the organization of the CFR parts in this proposed rule generally reflects the order outlined in the ANPRM. Our comprehensive review of the Subchapter identified opportunities to consolidate related requirements that had been added over the years to different sections within the parts.

The existing Subchapter B contains several Parts that are subdivided into multiple subparts, making it difficult to locate information quickly. The proposed rule instead has broken the material into smaller, more focused Parts. Each part begins with a statement of the statutory authorities and the ISO 15489–1:2001 clauses that pertain to the provisions.

Discussion of Proposed Rule Provisions

Proposed Part 1220, Federal Records; General

This part sets out the statutory basis for Federal records management programs; the roles of NARA, other oversight agencies, and every Federal agency in carrying out records management; and general records management program requirements, which are specified in greater detail in subsequent parts. The material in proposed part 1220 is drawn from subparts A and B of the existing 36 CFR part 1220, plus existing §§ 1222.10 and 1222.20. Existing § 1220.18 is moved to proposed part 1239.

In proposed § 1220.18 we have added definitions for the following terms: *Disposition authority, Information system,* and *Personal files.* The definition for *Personal files* is based on the definition of ''personal papers'' in the existing 36 CFR 1222.36, but has been updated and clarified. We deleted the definition for *Maintenance and use* as the term is understandable in the regulations without the definition. A number of the other definitions in § 1220.18 have been edited but their substantive meaning has not changed.

We have not revised the definition of *Records* (Federal records) other than to add a cross reference to an explanation of the elements of the definition. We caution agencies and the public that the statutory definition of ''record'' in 44 U.S.C. 3301, and thus this regulatory definition, differs from statutory definitions of the same term for purposes of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and other statutes.

The existing 36 CFR part 1220, subpart B has been reorganized and rewritten in plain language. The proposed provisions are organized around identification of agency records management responsibilities, general records management principles that agency records management programs must implement, and high-level statement of the actions agencies must take to carry out their records management responsibilities. Concepts in existing §§ 1222.10 and 1222.20 have been incorporated in the revised subpart B.

Proposed Part 1222, Creation and Maintenance of Federal Records

This part distinguishes between records, personal files, and nonrecord materials; and prescribes recordkeeping requirements for agencies, Federal employees, and Federal contractors. The material in proposed part 1222 is drawn from subparts A and C of existing 36

CFR part 1222. The significant changes to this part are:

• In the new § 1222.18, we are revising the conditions under which nonrecord materials may be removed by departing employees from Government agency custody. Currently, the regulations permit nonrecord materials containing national security classified information or information restricted from release under the Privacy Act or other statutes to be removed from an agency if the information is appropriately protected. After consulting the Information Security Oversight Office, we have revised the provision relating to national security classified information to limit removal to instances governed by the National Industrial Security Program. We also propose to prohibit without exception removal of Privacy Act and other statutorily restricted nonrecord materials from Government custody. This section does not apply to use of records and nonrecord materials in the course of conducting official agency business, including telework and authorized dissemination of information.

• In the new § 1222.32, we have added clarification concerning creation and maintenance of records when a contractor operates a program for an agency and reference to the National Industrial Security Program requirements for national security classified information.

Proposed Part 1223, Management of Vital Records

This part establishes the necessary actions that each agency must take to ensure proper and adequate documentation for continuing agency operations in the event of an emergency or disaster. The material in proposed part 1223 is drawn from existing 36 CFR part 1236. There are no significant changes from the existing regulations other than updating references to the authorities.

Proposed Part 1224, Disposition of Federal Records; General

This part specifies the elements of a records disposition program, the details of which are covered in proposed parts 1225 through 1235. The requirements in existing 36 CFR 1228.12, Basic elements of disposition programs, are covered now in § 1220.34.

Proposed Part 1225, Scheduling Records

This part outlines the process for developing records schedules and obtaining records disposition authorities. The material in proposed part 1225 replaces subpart B of existing 36 CFR part 1228.

Proposed Part 1226, Implementing Schedules

This part instructs agencies on how to apply disposition instructions, dispose of records, and train agency personnel in these procedures. The material in proposed part 1226 is drawn from subpart D of existing 36 CFR part 1228. We have removed the requirement to submit 20 copies of printed schedules and now require only that an electronic copy be sent via e-mail. As authorized by a 2004 change to 44 U.S.C. 2909, the proposed § 1226.20 will allow agencies to temporarily retain records beyond their approved retention period when special circumstances alter the normal administrative, legal or fiscal value of the records. The existing regulation requires agencies to obtain NARA approval if the records must be kept for more than one year beyond the date they are eligible for disposal.

Proposed Part 1227, General Records Schedules

This part explains General Records Schedules (GRS) and when the GRS must be used by agencies. The material in proposed part 1227 is drawn from subpart C of existing 36 CFR part 1228. The only significant change from the existing regulation is that the list of current GRS is no longer provided in the part. Instead, agencies are directed to NARA's Web site to obtain copies of the most current schedules.

Proposed Part 1228, Loan of Permanent and Unscheduled Records

This part prescribes the procedures for agencies to loan permanent and unscheduled records to other Federal agencies and non-Federal entities. The material in proposed part 1228 is drawn from subpart E of existing 36 CFR part 1228. Because the loan of permanent and unscheduled records increases the likelihood of the records becoming lost, misplaced, or incorporated into other files, we have added a requirement that agencies obtain prior NARA approval to loan original permanent or unscheduled records to other Federal agencies. We believe that there are few, if any, instances where agencies currently loan original records to another agency. Since agencies do not need to request NARA approval to provide copies of records to other agencies and entities, this provision should not place a burden on agencies.

Proposed Part 1229, Emergency Authorization to Destroy Records

This part outlines the steps agencies must take when they discover records that are a continuing menace to human health or life or to property. The material in proposed part 1229 is drawn from subpart F of existing 36 CFR part 1228. The only significant change is to require agencies to notify NARA in all cases where records constituting a continuing menace to human health or life or to property are identified; the existing § 1228.92 permits agencies to deal with deteriorating nitrocellulose base film unilaterally, notifying NARA within 30 days after their action.

Proposed Part 1230, Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records

This part sets out the penalties and reporting requirements when records are destroyed, damaged, or removed without authorization. The material in proposed part 1230 is drawn from existing 36 CFR part 1228, subpart G. The title of the part now reflects the wording used in 44 U.S.C. 3106. We have also updated the provision relating to criminal penalties to reflect amendments to 18 U.S.C. 2071. We have added a new § 1230.16 to address how NARA and agencies handle credible allegations of unlawful or accidental removal, defacing, alteration, or destruction of records.

Proposed Part 1231, Transfer of Records from the Custody of One Executive Agency to Another

This part provides procedures for the transfer of records between executive agencies. The material in proposed part 1231 is drawn from 36 CFR part 1228, subpart H. The only significant change from the existing regulation is the removal of sections concerning transfer of equipment and the cost of transfers.

Proposed Part 1232, Transfer of Records to Records Storage Facilities

This part provides procedures for the transfer of records to a NARA, agency-operated, or commercial records storage facility. There are no substantive changes from the existing subpart I of 36 CFR part 1228.

Proposed Part 1233, Transfer, Use, and Disposition of Records in a NARA Records Center

This part provides procedures that apply to the use of NARA's Federal Records Center Program. There are no substantive changes from the existing subpart J of 36 CFR part 1228.

Proposed Part 1234, Facility Standards for Records Storage Facilities [Reserved]

At the final rule stage, we intend to re-designate the regulations currently in 36 CFR part 1228, subpart K, as new part 1234 without change. Comments are not being considered on the current subpart K or the move to a new part 1234.

Proposed Part 1235, Transfer of Records to the National Archives of the United States

The material in proposed part 1235 is drawn from 36 CFR part 1228, subpart L. The significant changes are elimination of descriptive information on the archival depositories in which transferred records will be stored and specification of timeframes for NARA approval or disapproval of agency requests to retain records beyond their expected transfer date.

Proposed Part 1236, Electronic Records Management

This part reflects an update and reorganization of policies and procedures relating to electronic records management, currently contained in 36 CFR part 1234. This proposed part 1236 reminds agencies that all records management program requirements in parts 1220 through 1235 apply to electronic records, and then focuses on additional requirements that apply to electronic records. The revision of this part was also informed by the responses NARA received to an ANPRM published on October 10, 2001 (66 FR 51740) addressing a petition for rulemaking. The petition had requested that the Archivist amend NARA rules concerning the management, scheduling and preservation of text documents created in electronic form.

The proposed part 1236 contains, in restated language, most of the provisions of the existing part 1234. We have broadened the coverage of text documents to include all unstructured records. We have eliminated the existing § 1234.26, Judicial use of electronic records, because those principles are now widely accepted by courts. As noted previously, this proposed part does not reflect pending legislation relating to requirements that electronic records be captured and preserved in electronic recordkeeping systems only.

Proposed Part 1237, Audiovisual, Cartographic, and Related Records Management

This proposed part expands and updates the audiovisual records management provisions in the existing 36 CFR part 1232 to address aerial photographic records, architectural engineering records, cartographic records, and digital photographs. As with the proposed CFR parts for electronic and micrographic records, this proposed part 1237 reminds agencies that all records management program requirements in parts 1220 through 1235 apply to audiovisual, cartographic and related records, and then focuses on additional requirements that apply specifically to records in these formats and media.

Proposed Part 1238, Microforms Records Management

The material in proposed part 1238 is drawn from existing 36 CFR part 1230. The only substantive change is the deletion of the current § 1230.50 concerning non-regulatory information on centralized micrographic services from NARA.

Proposed Part 1239, Program Assistance and Inspections

The material in proposed part 1239 relating to program assistance NARA provides to agencies is drawn from existing 36 CFR part 1238; there are no substantive changes. The material relating to inspections of records management programs has been changed significantly from the current regulations on evaluations contained in subpart C of existing 36 CFR part 1220. As NARA announced in its 2003 Strategic Directions for Federal Records Management, NARA will undertake inspections when an agency, or a series of agencies in a specific line of business, fails to address high-level records management risks or specific problems identified through NARA's risk-based resource allocation model or other means such as Government reports or the media. The time frames for the inspection steps have been shortened, reflecting the more focused nature of inspections.

Parts 1240 through 1249 are reserved.

Regulatory Impact

This proposed rule is a significant regulatory action for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). The proposed rule incorporates changes made during the OMB and interagency review under E.O. 12866. As required by the Regulatory Flexibility Act, I certify that this proposed rule will not have a significant impact on a substantial number of small entities because this regulation will affect Federal agencies. This regulation does not have any federalism implications.

List of Subjects

Archives and records.

For the reasons set forth in the preamble, NARA proposes to revise Subchapter B of chapter XII, title 36, Code of Federal Regulations, to read as follows:

CHAPTER XII—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Subchapter B—Records Management

Part

Subchapter B—Records Management

PART 1220—FEDERAL RECORDS; GENERAL

Subpart A—General Provisions of Subchapter B

Sec.

Subpart B—Agency Records Management Program Responsibilities

Authority: 44 U.S.C. Chapters 21, 29, 31, and 33.

§ 1220.1 What is the scope of Subchapter B?

Subchapter B prescribes policies for Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, and records disposition.

§ 1220.2 What are the authorities for Subchapter B?

The regulations in this subchapter implement the provisions of 44 U.S.C. Chapters 21, 29, 31, and 33.

§ 1220.3 What standards are used as guidelines for Subchapter B?

These regulations are in conformance with ISO 15489–1:2001, Information and documentation—Records management. Other standards relating to specific sections of the regulations are cited where appropriate.

§ 1220.10 Who is responsible for records management?

(a) The National Archives and Records Administration (NARA) is responsible for overseeing agencies' adequacy of documentation and records disposition programs and practices, and the General Services Administration (GSA) is responsible for overseeing economy and efficiency in records management. The Archivist of the United States and the Administrator of GSA issue regulations and provide guidance and assistance to Federal agencies on records management programs. NARA regulations are in this subchapter. GSA regulations are in 41 CFR part 102–193.

(b) Federal agencies are responsible for establishing and maintaining a records management program that complies with NARA and GSA regulations and guidance. Subpart B of this part sets forth basic agency records management requirements.

§ 1220.12 What are NARA's records management responsibilities?

(a) The Archivist of the United States issues regulations and provides guidance and assistance to Federal agencies on ensuring adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Federal Government and ensuring proper records disposition, including standards for improving the management of records.

(b) NARA establishes standards for the retention of records having continuing value (permanent records), and assists Federal agencies in applying the standards to records in their custody.

(c) Through a records scheduling and appraisal process, the Archivist of the United States determines which Federal records may be destroyed and which records must be preserved and transferred to the National Archives of the United States. The Archivist's determination constitutes mandatory authority for the final disposition of all Federal records.

(d) The Archivist of the United States issues General Records Schedules (GRS) authorizing disposition, after specified periods of time, of records common to several or all Federal agencies.

§ 1220.14 Who must follow the regulations in Subchapter B?

The regulations in Subchapter B apply to Federal agencies as defined in § 1220.18.

§ 1220.16 What recorded information and documentary materials must be managed in accordance with the regulations in Subchapter B?

The requirements in Subchapter B apply to recorded information and documentary materials that meet the definition of Federal records. See also part 1222.

§ 1220.18 What definitions apply to the regulations in Subchapter B?

As used in subchapter B—

Agency (see Executive agency and Federal agency).

Adequate and proper documentation means a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

Appraisal is the process by which the National Archives and Records Administration (NARA) determines the value and thus the final disposition of Federal records, designating them either temporary or permanent.

Commercial records storage facility is a private sector commercial facility that offers records storage, retrieval, and disposition services.

Comprehensive schedule is an agency manual or directive containing descriptions of and disposition instructions for documentary materials in all physical forms, record and nonrecord, created by a Federal agency or major component of an Executive department. Unless taken from General Records Schedules (GRS) issued by NARA, the disposition instructions for records must be approved by NARA on one or more Standard Form(s) 115, Request for Records Disposition Authority, prior to issuance by the agency. The disposition instructions for nonrecord materials are established by the agency and do not require NARA approval. See also *records schedule*.

Contingent records are records whose final disposition is dependent on an action or event, such as sale of property or destruction of a facility, which will take place at some unspecified time in the future.

Disposition means those actions taken regarding records no longer needed for the conduct of the regular current business of the agency.

Disposition authority means the legal authorization for the retention and disposal of records. For Federal records it is found on Standard Forms 115, Request for Records Disposition Authority, which have been approved by the Archivist of the United States. For nonrecord materials, the disposition is established by the creating or custodial agency. See also *records schedule*.

Documentary materials are a collective term that refers to recorded information, regardless of the medium or the method or circumstances of recording.

Evaluation means the selective or comprehensive inspection, audit, or review of one or more Federal agency records management programs for effectiveness and for compliance with applicable laws and regulations. It includes recommendations for correcting or improving records management policies and procedures, and follow-up activities, including reporting on and implementing the recommendations.

Executive agency means any executive department or independent establishment in the executive branch of the U.S. Government, including any wholly owned Government corporation.

Federal agency means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction). (44 U.S.C. 2901(14)).

Federal records (see records).

File means an arrangement of records. The term is used to denote papers, photographs, maps, electronic information, or other recorded

information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, on electronic media, or on shelves, and occupying office or storage space.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, transmission, and dissemination of information, in accordance with defined procedures, whether automated or manual. (OMB Circular A–130.)

National Archives of the United States is the collection of all records selected by the Archivist of the United States because they have sufficient historical or other value to warrant their continued preservation by the Federal Government and that have been transferred to the legal custody of the Archivist of the United States, currently through execution of a Standard Form 258 (Agreement to Transfer Records to the National Archives of the United States). See also *permanent record*.

Nonrecord materials are those Federally owned informational materials that do not meet the statutory definition of records (44 U.S.C. 3301) or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States, even while it remains in agency custody. Permanent records are those for which the disposition is permanent on SFs 115, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973. The term also includes all records accessioned by NARA into the National Archives of the United States.

Personal files (also called *personal papers*) are documentary materials, or any reasonably segregable portion thereof, regardless of physical form or format, of a private or nonpublic character that do not relate to and do not have an affect upon the conduct of agency business. Personal files are excluded from the definition of Federal records and are not owned by the Government.

Recordkeeping requirements means all statements in statutes, regulations, and agency directives or other authoritative issuances, that provide general or specific requirements for Federal agency personnel on particular records to be created and maintained by the agency.

Recordkeeping system is a manual or electronic system that captures, organizes, and categorizes records to facilitate their preservation, retrieval, use, and disposition.

Records or *Federal records* is defined in 44 U.S.C. 3301 as including all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of the data in them (44 U.S.C. 3301) (see also § 1222.10 of this part for an explanation of this definition).

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist (NARA Federal Records Center) or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space. See also *records storage facility*.

Records management, as used in subchapter B, means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

Records schedule or schedule means:

(a) A Standard Form 115, Request for Records Disposition Authority that has been approved by NARA to authorize the disposition of Federal records;

(b) A General Records Schedule (GRS) issued by NARA; or

(c) A published agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SFs 115 or issued by NARA in the GRS. See also *comprehensive schedule.*

Records storage facility is a records center or a commercial records storage facility, as defined in this section, i.e., a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity.

Retention period is the length of time that records are to be kept.

Series means file units or documents arranged according to a filing or classification system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access and use. Also called a *records series.*

Temporary record means any Federal record that has been determined by the Archivist of the United States to have insufficient value (on the basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:

(a) Records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or

(b) Records designated as disposable in a General Records Schedule.

Unscheduled records are Federal records whose final disposition has not been approved by NARA on a Standard Form 115, Request for Records Disposition Authority. Such records must be treated as permanent until a final disposition is approved.

Subpart B—Agency Records Management Responsibilities

§ 1220.30 What are an agency's records management responsibilities?

(a) Under 44 U.S.C. 3101, the head of each Federal agency must make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. These records must be designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

(b) Under 44 U.S.C. 3102, the head of each Federal agency must establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

(c) Agency records management programs must provide for:

(1) Effective controls over the creation, maintenance, and use of records in the conduct of current business; and

(2) Cooperation with the Archivist and the Administrator of GSA in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and destruction of records of temporary value.

§ 1220.32 What records management principles must agencies implement?

Agencies must create and maintain authentic, reliable, and useable records and ensure that they remain so for the length of their authorized retention period. A comprehensive records management program provides policies and procedures for ensuring that:

(a) Records documenting agency business are created or captured, and the form or format of each record is specified;

(b) Records are organized and maintained to facilitate their use and usefulness throughout their authorized retention periods;

(c) Records are available when needed, where needed, and in a useable format to conduct agency business;

(d) Legal and regulatory requirements, relevant standards, and agency policies are followed;

(e) Records, regardless of format, are protected in a safe and secure environment and removal or destruction is carried out only as authorized in records schedules; and

(f) Continuity of operations is supported by a vital records program (see part 1223 of Subchapter B).

§ 1220.34 What must an agency do to carry out its records management responsibilities?

To carry out the responsibilities specified in 44 U.S.C. 3101 and 3102, agencies must:

(a) Assign records management responsibility to a person and office with appropriate authority within the agency to coordinate and oversee implementation of the agency comprehensive records management program principles in § 1220.32;

(b) Advise NARA and agency managers of the name(s) of the individual(s) assigned operational responsibility for the agency records management program. To notify NARA, send the name, e-mail and postal addresses, telephone and fax numbers of the individual to NARA (NWM), 8601 Adelphi Road, College Park, MD 20740–6001 or to *RM.Communications@nara.gov.* The name, title, and telephone number of the official or officials authorized by the head of the agency to sign records disposition schedules and requests for transfer of records to the custody of the National Archives must also be submitted to NARA (NWM) or *RM.Communications@nara.gov;*

(c) Issue a directive(s) establishing program objectives, responsibilities, and authorities for the creation, maintenance, and disposition of agency records. Copies of the directive(s) (including subsequent amendments or supplements) must be disseminated throughout the agency, as appropriate, and a copy must be sent to NARA (NWM);

(d) Assign records management responsibilities in each program (mission) and administrative area to ensure incorporation of recordkeeping requirements and records maintenance, storage, and disposition practices into agency programs, processes, systems, and procedures;

(e) Integrate records management and archival requirements into the design, development, and implementation of electronic information systems as specified in § 1236.12;

(f) Provide guidance and training to all agency personnel on their records management responsibilities, including identification of Federal records, in all formats and media;

(g) Develop records schedules for all records created and received by the agency and obtain NARA approval of the schedules prior to implementation, in accordance with 36 CFR parts 1225 and 1226;

(h) Comply with applicable policies, procedures, and standards relating to records management and recordkeeping requirements issued by the Office of Management and Budget, NARA, GSA, or other agencies, as appropriate (see § 1222.22);

(i) Institute controls ensuring that all records, regardless of format or medium, are properly organized, classified or indexed, and described, and made available for use by all appropriate agency staff; and

(j) Conduct formal evaluations to measure the effectiveness of records management programs and practices, and compliance with NARA regulations in this subchapter.

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

Subpart A—Identifying Federal Records

Subpart B—Agency Recordkeeping Requirements

Authority: 44 U.S.C. 2904, 3101, 3102, and 3301.

Subpart A—Identifying Federal Records

§ 1222.1 What are the authorities for Part 1222?

The statutory authorities for this part are 44 U.S.C. 2904, 3101, 3102, and 3301.

§ 1222.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1222.

§ 1222.3 What standards are used as guidance for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 7.1 (Principles of records management programmes), 7.2 (Characteristics of a record), 8.3.5 (Conversion and migration), 8.3.6 (Access, retrieval and use), and 9.6 (Storage and handling) apply to records creation and maintenance.

§ 1222.10 How should agencies apply the statutory definition of Federal records?

(a) The statutory definition of Federal records is contained in 44 U.S.C. 3301 and provided in § 1220.18 of this chapter.

(b) Several key terms, phrases, and concepts in the statutory definition of a Federal record are further explained as follows:

(1) *Documentary materials* is a collective term for records, nonrecord

materials, and personal papers that refers to all media containing recorded information, regardless of the nature of the media or the method(s) or circumstance(s) of recording.

(2) *Regardless of physical form or characteristics* means that the medium may be paper, film, disk, or other physical type or form; and that the method of recording may be manual, mechanical, photographic, electronic, or any other combination of these or other technologies.

(3) *Made* means the act of creating and recording information by agency personnel in the course of their official duties, regardless of the method(s) or the medium involved.

(4) *Received* means the acceptance or collection of documentary materials by or on behalf of an agency or agency personnel in the course of their official duties regardless of their origin (for example, other units of their agency, private citizens, public officials, other agencies, contractors, Government grantees) and regardless of how transmitted (in person or by messenger, mail, electronic means, or by any other method). In this context, the term does not refer to misdirected materials. It may or may not refer to loaned or seized materials depending on the conditions under which such materials came into agency custody or were used by the agency. Advice of legal counsel should be sought regarding the ''record'' status of loaned or seized materials.

(5) *Preserved* means the filing, storing, or any other method of systematically maintaining documentary materials by the agency. This term covers materials not only actually filed or otherwise systematically maintained but also those temporarily removed from existing filing systems.

(6) *Appropriate for preservation* means documentary materials made or received which, in the judgment of the agency, should be filed, stored, or otherwise systematically maintained by an agency because of the evidence of agency activities or information they contain, even if the materials are not covered by its current filing or maintenance procedures.

§ 1222.12 What types of documentary materials are Federal records?

(a) *General.* To ensure that complete and accurate records are made and retained in the Federal Government, agencies must distinguish between records and nonrecord materials by applying the definition of records (see 44 U.S.C. 3301 and 36 CFR 1220.18 and 1222.10) to agency documentary materials in all formats and media.

(b) *Record status.* Documentary materials are records when they meet the conditions specified in § 1222.10(b).

(c) *Working files and similar materials.* Working files, such as preliminary drafts and rough notes, and other similar materials, are records that must be maintained to ensure adequate and proper documentation if:

(1) They were circulated or made available to employees, other than the creator, for official purposes such as approval, comment, action, recommendation, follow-up, or to communicate with agency staff about agency business; or

(2) They contain unique information, such as substantive annotations or comments that adds to a proper understanding of the agency's formulation and execution of basic policies, decisions, actions, or responsibilities.

(d) *Record status of copies.* The determination as to whether a particular document is a record does not depend solely upon whether it contains unique information. Multiple copies of the same document and documents containing duplicative information may each have record status depending on their relationship to other records (context) and how they are used in conducting agency business.

§ 1222.14 What are nonrecord materials?

Nonrecord materials are U.S. Government-owned documentary materials that do not meet the conditions of records status (see § 1222.12(b)) or that are specifically excluded from the statutory definition of records (see 44 U.S.C. 3301). An agency's records management program also needs to include managing nonrecord materials because their volume may exceed that of records. There are three specific categories of materials excluded from the statutory definition of records:

(a) Library and museum material (but only if such material is made or acquired and preserved solely for reference or exhibition purposes), including physical exhibits, artifacts, and other material objects lacking evidential value.

(b) Extra copies of documents (but only if the sole reason such copies are preserved is for convenience of reference) including:

(1) Information copies of correspondence, directives, forms, and other documents on which no action is recorded or taken.

(2) Tickler, follow up, or suspense copies of correspondence, provided they are not the original documents.

(3) Duplicate copies of documents filed together in the same file.

(4) Extra copies of printed or processed materials for which complete record sets exist, such as current and superseded manuals maintained outside the office responsible for maintaining the record set.

(c) Stocks of publications and of processed documents. Catalogs, trade journals, and other publications that are received from other Government agencies, commercial firms, or private institutions and that require no action and are not part of a case on which action is taken. (Stocks do not include serial or record sets of agency publications and processed documents, as evidence of agency activities and for the information they contain, including annual reports, brochures, pamphlets, books, handbooks, posters and maps.)

§ 1222.16 How are nonrecord materials managed?

(a) Agencies must develop recordkeeping requirements to distinguish records from nonrecord materials.

(b) The following guidelines should be used in managing nonrecord materials:

(1) If a clear determination cannot be made, the materials should be treated as records. Agencies may consult with NARA for guidance.

(2) Nonrecord materials must be physically segregated from records or, for electronic non-record materials maintained in an electronic repository, readily identified and segregable from records;

(3) Nonrecord materials should be purged when no longer needed for reference. NARA's approval is not required to destroy such materials.

§ 1222.18 Under what conditions may nonrecord materials be removed from Government agencies?

(a) Nonrecord materials, including extra copies of unclassified or formally declassified agency records kept only for convenience of reference, may be removed by departing employees from Government agency custody only with the approval of the head of the agency or the individual(s) authorized to act for the agency on records issues.

(b) National security classified information may not be removed from Government custody, except for a removal of custody taken in accordance with the requirements of the National Industrial Security Program established under Executive Order 12829, as amended, or a successor Order.

(c) Information that is restricted from release under the Privacy Act or other

statutes may not be removed from Government custody.

(d) This section does not apply to use of records and nonrecord materials in the course of conducting official agency business, including telework and authorized dissemination of information.

§ 1222.20 How are personal files defined and managed?

(a) Personal files are defined in § 1220.18. The NARA publications *Documenting Your Public Service http://www.archives.gov/records-mgmt/publications/documenting-your-public-service.html* and *Disposition of Federal Records http://www.archives.gov/records-mgmt/publications/disposition-of-federal-records/index.html* further explain what types of materials are personal files. This section does not apply to agencies and positions that are covered by the Presidential Records Act (see 36 CFR part 1270).

(b) Personal files must be clearly designated as such and must be maintained separately from the office's official records.

(1) Information about private (non-agency) matters and agency business must not be mixed in outgoing agency documents, such as correspondence and messages.

(2) If information about private matters and agency business appears in a received document, the document is a Federal record. Agencies may make a copy of the document with the personal information deleted or redacted, and treat the copy as the Federal record.

(3) Materials labeled ''personal,'' ''confidential,'' or ''private,'' or similarly designated, and used in the transaction of public business, are Federal records. The use of a label such as ''personal'' does not affect the status of documentary materials in a Federal agency.

Subpart B—Agency Recordkeeping Requirements

§ 1222.22 What records are required to provide for adequate documentation of agency business?

To meet their obligation for adequate and proper documentation agencies must prescribe the creation and maintenance of records that:

(a) Document the persons, places, things, or matters dealt with by the agency.

(b) Facilitate action by agency officials and their successors in office.

(c) Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government.

(d) Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.

(e) Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically.

(f) Document important board, committee, or staff meetings.

§ 1222.24 How do agencies establish recordkeeping requirements?

(a) Agencies must ensure that procedures, directives and other issuances; systems planning and development documentation; and other relevant records include recordkeeping requirements for records in all media, including those records created or received on electronic mail systems. Recordkeeping requirements must:

(1) Identify and prescribe specific categories of records to be systematically created or received and maintained by agency personnel in the course of their official duties;

(2) Specify the use of materials and recording techniques that ensure the preservation of records as long as they are needed by the Government;

(3) Prescribe the manner in which these materials must be maintained wherever held;

(4) Propose how long records must be maintained for agency business per the scheduling process in Part 1225;

(5) Distinguish records from nonrecord materials and comply with the provisions in Subchapter B concerning records scheduling and disposition;

(6) Include procedures to ensure that departing officials and employees do not remove Federal records from agency custody and remove nonrecord materials only in accordance with § 1222.18;

(7) Define the special recordkeeping responsibilities of program managers, information technology staff, systems administrators, and the general recordkeeping responsibilities of all agency employees.

(b) Agencies must provide the training described in § 1220.34(f) and inform all employees that they are responsible and accountable for keeping accurate and complete records of their activities.

§ 1222.26 What are the general recordkeeping requirements for agency programs?

To ensure the adequate and proper documentation of agency programs, each program must develop recordkeeping requirements that identify:

(a) The record series and systems that must be created and maintained to document program policies, procedures, functions, activities, and transactions;

(b) The office responsible for maintaining the record copies of those series and systems, and applicable system administrator responsible for ensuring authenticity, protection, and ready retrieval of electronic records;

(c) Related records series and systems;

(d) The relationship between paper and electronic files in the same series; and

(e) Policies, procedures, and strategies for ensuring that records are retained long enough to meet programmatic, administrative, fiscal, legal, and historical needs as authorized in a NARA-approved disposition schedule.

§ 1222.28 What are the series level recordkeeping requirements?

To ensure that record series and systems adequately document agency policies, transactions, and activities, each program must develop recordkeeping requirements for records series and systems that include:

(a) Identification of information and documentation that must be included in the series and/or system;

(b) Arrangement of each series and the records within the series and/or system;

(c) Identification of the location of the records and the staff responsible for maintaining the records;

(d) Policies and procedures for maintaining the documentation of telephone calls, meetings, instant messages, and electronic mail exchanges that include substantive information about agency policies and activities;

(e) Policies and procedures for identifying working files and for determining the record status of working files in paper and electronic form; and

(f) Policies and procedures for maintaining series consisting of different media.

§ 1222.30 When must agencies comply with the recordkeeping requirements of other agencies?

Agencies must comply with recordkeeping requirements that are imposed government-wide by another agency with jurisdiction over the program or activity being conducted, *e.g.*, requirements for records concerning hazardous waste. Affected agencies must include these requirements in appropriate directives or other official issuances prescribing the agency's organization, functions, or activities.

§ 1222.32 How do agencies manage records created or received by contractors?

(a) Agency officials responsible for administering contracts must safeguard records created, processed, or in the possession of a contractor or a non-Federal entity by taking the following steps:

(1) Agencies must ensure that contractors performing Federal government agency functions create and maintain records that document these activities. Agencies must specify in the contract government ownership and the delivery to the Government of all records necessary for the adequate and proper documentation of contractor-operated agency activities and programs in accordance with requirements of the Federal Acquisition Regulation (FAR) and, where applicable, the Defense Federal Acquisition Regulation Supplement (DFARS).

(2) Records management oversight of contract records is necessary to ensure that all recordkeeping needs are met. All records created for Government use and delivered to, or under the legal control of, the Government must be managed in accordance with Federal law. In addition, electronic records and background electronic data specified for delivery to the contracting agency must be accompanied by sufficient technical documentation to permit use of the records and data.

(3) Contracts that require the creation of data for the Government's use must specify, in addition to the final product, delivery of background supporting data or other records that may have reuse value to the Government. To determine what background supporting data or other records that contractors must deliver, program and contracting officials must consult with agency records and information managers and historians and, when appropriate, with other Government agencies to ensure that all Government needs are met, especially when the data deliverables support a new agency mission or a new Government program.

(4) Deferred ordering and delivery-of-data clauses and rights-in-data clauses must be included in contracts whenever necessary to ensure adequate and proper documentation or because the data have reuse value to the Government.

(b) All data created for Government use and delivered to, or falling under the legal control of, the Government are Federal records subject to the provisions of 44 U.S.C. chapters 21, 29, 31, and 33, the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act (5 U.S.C. 552a), and must be managed and scheduled for disposition only as provided in Subchapter B.

(c) Agencies must ensure that appropriate authority for retention of classified materials has been granted to contractors or non-government entities participating in the National Industrial Security Program (NISP), in accordance with 32 CFR part 2004.

§ 1222.34 How must agencies maintain records?

Agencies must implement a records maintenance program so that complete records are filed or otherwise identified and preserved, records can be readily found when needed, and permanent and temporary records are physically segregated from each other or, for electronic records, segregable. Agency records maintenance programs must:

(a) Institute procedures for organizing and storing records;

(b) Maintain electronic, audiovisual and cartographic, and microform records in accordance with 36 CFR parts 1236, 1237, and 1238, respectively;

(c) Assign responsibilities for maintenance of records in all formats within each agency component, including designation of the officials that are responsible for maintenance and disposition of electronic records and management of automated systems used for recordkeeping;

(d) Institute reference and retrieval procedures and controls that:

(1) Facilitate the finding, charging out, and refiling of records, including safeguards against loss during transit; and

(2) Ensure that access to electronic records minimizes the risk of unauthorized additions, deletions, or alterations;

(e) Issue appropriate instructions to all agency employees on handling and protecting records;

(f) Maintain records and nonrecord materials separately;

(g) Maintain personal files separately from records in accordance with § 1222.20; and

(h) Comply with 36 CFR parts 1232 and 1234 when storing records in a records facility.

PART 1223—MANAGING VITAL RECORDS

Sec.

Authority: 44 U.S.C. 3101; E.O. 12656, 53 FR 47491; E.O. 13231, 66 FR 53063.

§ 1223.1 What are the authorities for Part 1223?

(a) The authorities for this part are 44 U.S.C. 3101; Executive Orders 12656, Assignment of Emergency Preparedness Responsibilities, and 13231, Critical Infrastructure Protection in the Information Age; National Security Presidential Directive (NSPD 51)/ Homeland Security Presidential Directive (HSPD–20) or applicable successor directives. These authorities require the head of each agency to make and preserve records that contain adequate and proper documentation of the organization and to perform national security emergency preparedness functions.

(b) These regulations are in conformance with guidance provided in Federal Emergency Management Agency Federal Preparedness Circular (FPC) 65, Federal Executive Branch Continuity of Operations (COOP).

§ 1223.2 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout subchapter B, including part 1223.

(b) As used in part 1223—

Cycle means the periodic removal of obsolete copies of vital records and their replacement with copies of current vital records. This may occur daily, weekly, quarterly, annually or at other designated intervals.

Disaster means an unexpected occurrence inflicting widespread destruction and distress and having long-term adverse effects on agency operations. Each agency defines what a long-term adverse effect is in relation to its most critical program activities.

Emergency means a situation or an occurrence of a serious nature, developing suddenly and unexpectedly, and demanding immediate action. This is generally of short duration, for example, an interruption of normal agency operations for a week or less. It may involve electrical failure or minor flooding caused by broken pipes.

Emergency operating records are that type of vital records essential to the continued functioning or reconstitution of an organization during and after an emergency. Included are emergency plans and directive(s), orders of succession, delegations of authority,

staffing assignments, selected program records needed to continue the most critical agency operations, as well as related policy or procedural records that assist agency staff in conducting operations under emergency conditions and for resuming normal operations after an emergency.

Legal and financial rights records are that type of vital records essential to protect the legal and financial rights of the Government and of the individuals directly affected by its activities. Examples include accounts receivable records, Social Security records, payroll records, retirement records, and insurance records. These records were formerly defined as ''rights-and-interests'' records.

National security emergency means any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or threatens the national security of the United States, as defined in Executive Order 12656.

Off-site storage means a facility other than an agency's normal place of business where records are kept until eligible for final disposition. Vital records may be kept at off-site storage to ensure that they are not damaged or destroyed should an emergency occur in an agency's normal place of business.

Vital records means essential agency records that are needed to meet operational responsibilities under national security emergencies or other emergency conditions (emergency operating records) or to protect the legal and financial rights of the Government and those affected by Government activities (legal and financial rights records).

Vital records program means the policies, plans, and procedures developed and implemented and the resources needed to identify, use, and protect the essential records needed to meet operational responsibilities under national security emergencies or other emergency conditions or to protect the Government's rights or those of its citizens. This is a program element of an agency's emergency management function.

§ 1223.3 What standards are used as guidelines for Part 1223?

These regulations conform with guidance provided in ISO 15489–1:2001. Paragraphs 7.1 (Principles of records management programmes) and 9.6 (Storage and handling) apply to vital records.

§ 1223.10 What is the purpose of Part 1223?

Part 1223 prescribes policies and procedures needed to establish a program to identify protect, and manage vital records as part of an agency's continuity of operation plan designed to meet emergency management responsibilities.

§ 1223.12 What are the objectives of a vital records program?

A vital records program has two objectives:

(a) It provides an agency with the information it needs to conduct its business under other than normal operating conditions and to resume normal business afterward; and

(b) It enables agency officials to identify and protect the most important records dealing with the legal and financial rights of the agency and of persons directly affected by the agency's actions.

§ 1223.14 What elements must a vital records program include?

To achieve compliance with this section, an agency's vital records program must contain all elements listed in Annex G of FPC 65. In carrying out a vital records program, agencies must:

(a) Specify agency staff responsibilities;

(b) Appropriately inform all staff about vital records;

(c) Ensure that the designation of vital records is current and complete; and

(d) Ensure that vital records are adequately protected, accessible, and immediately usable.

§ 1223.16 How are vital records identified?

Agencies identify vital records in the context of the emergency management function. Vital records are those that are needed to perform the most critical functions of the agency and those needed to protect legal and financial rights of the Government and of the persons affected by its actions. Vital records also include emergency plans and related records that specify how an agency will respond to an emergency. The informational content of record series and electronic records systems determines which are vital records. Only the most recent and complete sources of the information are vital records.

§ 1223.18 Must vital records be in a particular form or format?

(a) Vital records can be original records or copies of records. Consult NARA records management guidance on vital records at *http://www.archives.gov/records-mgmt/vital-records/index.html* for further information.

(b) Records may be maintained on a variety of media including paper, magnetic tape, optical disk, photographic film, and microform. In selecting the media, agencies must ensure that equipment needed to read the specific media will be available following an emergency or disaster.

§ 1223.20 What are the requirements for accessing vital records during an emergency?

Agencies must establish retrieval procedures for vital records that are easily implemented, especially since individuals unfamiliar with the records may need to use them in an emergency. For electronic records systems, agencies must also ensure that appropriate hardware, software, and system documentation adequate to operate the system and access the records will be available in case of an emergency.

§ 1223.22 How must agencies protect vital records?

Agencies must take appropriate measures to ensure the survival of the vital records or copies of vital records in case of an emergency.

(a) *Duplication.* Agencies may choose to duplicate vital records as the primary protection method. Duplication can be to the same medium as the original record or to a different medium. When agencies choose duplication as a protection method, the copy of the vital record stored off-site is normally a duplicate of the original record. The agency may store the original records off-site if their protection is necessary, or if it does not need to keep the original records at its normal place of business.

(b) *Dispersal.* Once records are duplicated, they must be dispersed to sites a sufficient distance away so as not to be subject to the same emergency. Dispersal sites may be other office locations of the same agency or some other site.

(c) *Storage considerations.* Copies of emergency operating vital records must be accessible in a very short period of time for use in the event of an emergency. Copies of legal and financial rights records may not be needed as quickly. In deciding where to store vital record copies, agencies must treat records that have the properties of both categories, that is, emergency operating and legal and financial rights records, as emergency operating records.

(1) The off-site copy of legal and financial rights vital records may be stored at an off-site agency location or, in accordance with § 1233.12 of this chapter, at a records storage facility.

(2) When using a NARA records storage facility for storing vital records that are duplicate copies of original records, the agency must specify on the Standard Form 135, Records Transmittal and Receipt, that they are vital records (duplicate copies) and the medium on which they are maintained. The agency must also periodically cycle (update) them by removing obsolete items and replacing them with the most recent version.

§ 1223.24 When can vital records be destroyed?

The disposition of vital records that are original records is governed by records schedules approved by NARA (see part 1225, Scheduling Records). Agencies must not destroy original records that are not scheduled. Duplicate copies created and maintained for vital records purposes only may be destroyed when superseded or obsolete during the routine vital records cycle process.

PART 1224—RECORDS DISPOSITION PROGRAMS

Sec.

Authority: 44 U.S.C. 2111, 2904, 3102, and 3301.

§ 1224.1 What are the authorities for Part 1224?

The statutory authorities for this part are 44 U.S.C. 2111, 2904, 3102, and 3301.

§ 1224.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1224.

§ 1224.3 What standards are used as guidance for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 7.1 (Principles of records management programmes), 8.3.7 (Retention and disposition), 8.5 (Discontinuing records systems), and 9.9 (Implementing disposition) apply to records disposition.

§ 1224.10 What must agencies do to implement an effective records disposition program?

In order to properly implement the provisions of §§ 1220.30(c)(2), 1220.32(e), and 1220.34(c), (f), and (g) agencies must:

(a) Ensure that all records are scheduled in accordance with part 1225, schedules are implemented in accordance with part 1226, and permanent records are transferred to the National Archives of the United States.

(b) Promptly disseminate and implement NARA-approved agency schedules and additions and changes to the General Records Schedules (GRS).

(c) Regularly review agency-generated schedules, and, if necessary, update them.

(d) Incorporate records retention and disposition functionality during the design, development, and implementation of new or revised records systems (whether paper or electronic). See § 1236.6.

(e) Provide training and guidance to all employees on agency records disposition requirements and procedures and other significant aspects of the records disposition program. When a new or revised records schedule is issued, provide specific guidance to employees responsible for applying the schedule.

PART 1225—SCHEDULING RECORDS

Sec.

Authority: 44 U.S.C. 2111, 2904, 2905, 3102, and Chapter 33.

§ 1225.1 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 2111, 2904, 2905, 3102, and Chapter 33.

§ 1225.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1225.

§ 1225.3 What standards are used as guidance for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 4 (Benefits of records management), 6.3 (Responsibilities), 7.1 (Principles of records management programmes), 8.3.7 (Retention and disposition), 9.2 (Determining how long to retain records), and 9.10 (Documenting records management processes) apply to records scheduling.

§ 1225.10 What Federal records must be scheduled?

All Federal records, including those created or maintained for the Government by a contractor, must be covered by a NARA-approved agency disposition authority, Standard Form (SF) 115, Request for Records Disposition Authority, or the NARA General Records Schedules. See §§ 1230.10 and 1234.32 of Subchapter B, for requirements specific to microform and electronic records, respectively.

§ 1225.12 How are records schedules developed?

The principal steps in developing agency records schedules are listed below. Details are given in the NARA *Disposition of Federal Records* handbook *http://www.archives.gov/records-mgmt/publications/disposition-of-federal-records/index.html* and other NARA guidance.

(a) Conduct a functional or work process analysis to identify the functions or activities performed by each organization or unit. Identify the recordkeeping requirements for each.

(b) Prepare an inventory for each function or activity to identify records series, systems, and nonrecord materials.

(c) Determine the appropriate scope of the records schedule items, e.g., individual series/system component, work process, group of related work processes, or broad program area.

(d) Evaluate the period of time the agency needs each records series or system based on use, value to agency operations and oversight agencies, and legal obligations. Determine whether a fixed or flexible retention period is more appropriate. For records proposed as temporary, specify a retention period that meets agency business needs and legal requirements. For records proposed as permanent records, identify how long the records are needed by the agency before they are transferred to NARA.

(e) Determine whether the proposed disposition should be limited to records in a specific medium. Records schedules submitted to NARA for

approval on or after December 17, 2007, are media neutral, i.e., the disposition instructions apply to the described records in all media, unless the schedule identifies a specific medium for a specific series.

(f) Compile a schedule for records, including descriptions and disposition instructions for each item, using the SF 115.

(g) Obtain internal clearances, as appropriate, from program offices and other stakeholders such as the legal counsel, chief information officer, electronic systems manager, and agency historian, as appropriate.

(h) Obtain approval from the General Accounting Office, when required under title 8 of the GAO Policy and Procedures Manual for the Guidance of Federal Agencies (see § 1225.20).

(i) Submit an SF 115 covering new or only revised record items to NARA for approval (see § 1225.18(d)).

(j) The disposition instructions on SFs 115 approved by the Archivist of the United States are mandatory (44 U.S.C. 3314).

§ 1225.14 How do agencies schedule permanent records?

(a) *Identification.* Identify potentially permanent records using guidelines in the NARA records management handbook, Disposition of Federal Records.

(b) *Requirements.* Each item proposed for permanent retention on an SF 115 must include the following:

(1) Descriptive title of the records series, component of an information system, or appropriate aggregation of series and/or information system components. The descriptive title must be meaningful to agency personnel;

(2) Complete description of the records including:

(i) Agency function;

(ii) Physical type;

(iii) Inclusive dates;

(iv) An arrangement statement;

(v) Statement of restrictions on access under the Freedom of Information Act if the records are proposed for immediate transfer;

(3) Disposition instructions developed using the following guidelines:

(i) If the records series or system is current and continuing, the SF 115 must specify the period of time after which the records will be transferred to the National Archives of the United States.

(ii) If the records series or system is nonrecurring, i.e., no additional records will be created or acquired, the agency must propose either that the records be transferred to the National Archives immediately or set transfer for a fixed date in the future.

(c) *Determination.* NARA will appraise the records to determine if they have sufficient value to warrant archival permanent preservation.

(1) If NARA determines either that records are not permanent or that the transfer instructions are not appropriate, it will notify the agency and negotiate an appropriate disposition. The disposition instruction on the SF 115 will be modified prior to NARA approval.

(2) If NARA and the agency cannot agree on the disposition and/or retention period for an item(s), the items(s) will be withdrawn. In these cases, the agency must submit an SF 115 with a revised proposal for disposition; unscheduled records must be treated as permanent until a new schedule is approved.

§ 1225.16 How do agencies schedule temporary records?

(a) *Identification.* Federal agencies request authority to dispose of records, either immediately or on a recurring basis. Requests for immediate disposal are limited to existing records that no longer accumulate. For recurring records, approved schedules provide continuing authority to destroy the records. The retention periods approved by NARA are mandatory, and the agency must dispose of the records after expiration of the retention period, except as provided in §§ 1226.18 and 1226.20.

(b) *Requirements.* Each item on an SF 115 proposed for eventual destruction must include the following:

(1) Descriptive title familiar to agency personnel;

(2) Description of the records including agency function, physical type(s) and informational content;

(3) Disposition instructions developed using the following guidelines:

(i) If the record series, component of an electronic information system, or appropriate aggregation of series and/or automated system components is current and continuing, the SF 115 must include file breaks, retention period or event after which the records will be destroyed, and, if appropriate, transfer period for retiring inactive records to an approved records storage facility.

(ii) If the records series, system, or other aggregation is nonrecurring, i.e., no additional records will be created or acquired, the SF 115 must specify either immediate destruction or destruction on a future date.

(c) *Determination.* If NARA determines that the proposed disposition is not consistent with the value of the records it will request that the agency make appropriate changes.

(1) If NARA determines that records proposed as temporary merit permanent retention and transfer to the National Archives, the agency must change the disposition instruction prior to approval of the SF 115.

(2) If NARA and the agency cannot agree on the retention period for an item(s), the items(s) will be withdrawn. In these cases, the agency will submit an SF 115 with a revised proposal for disposition within 6 months of the date of the approval of the original SF 115 or withdrawal of the SF 115 item.

§ 1225.18 How do agencies request records disposition authority?

(a) Federal agencies submit an SF 115 to NARA to request authority to schedule (establish the disposition for) permanent and temporary records, either on a recurring or one-time basis.

(b) SFs 115 include only records not covered by the General Records Schedules (GRS) (see part 1227), deviations from the GRS (see § 1227.10), or previously scheduled records requiring changes in retention periods or substantive changes in description.

(c) SFs 115 do not include nonrecord material. The disposition of nonrecord materials is determined by agencies and does not require NARA approval.

(d) The following elements are required on a SF 115:

(1) Title and description of the records covered by each item.

(2) Disposition instructions that can be readily applied. Records schedules must provide for:

(i) The destruction of records that no longer have sufficient value to justify further retention (see § 1224.10(b)); and

(ii) The identification of potentially permanent records and provisions for their transfer to the legal custody of NARA.

(3) Certification that the records proposed for disposition are not now needed for the business of the agency or will not be needed after the specified retention periods. The signature of the authorized agency representative on the SF 115 provides certification.

(e) NARA will return SFs 115 that are improperly prepared. The agency must make the necessary corrections and resubmit the form to NARA.

§ 1225.20 When do agencies have to get GAO approval for schedules?

(a) As specified in the GAO Policy and Procedures Manual for Guidance of Federal Agencies, title 8—Records Management (44 U.S.C. 3309), Federal agencies must obtain the approval of the Comptroller General for the disposal of the following types of records:

(1) Program records less than 3 years old,

(2) Deviations from GRS 2–10, and

(3) Certain records relating to claims and demands by or against the Government, and to accounts in which the Government is concerned.

(b) This approval must be obtained before NARA will approve the disposition request.

§ 1225.22 When must scheduled records be rescheduled?

Agencies must submit an SF 115, Request for Records Disposition Authority, to NARA in the following situations:

(a) If an interagency reorganization reassigns functions to an existing department or agency, the gaining organization must submit an SF 115 to NARA within one year of the reorganization. Schedules approved for one department or independent agency do not apply to records of other departments or agencies.

(b) If a new department or agency assumes functions from an existing one, the new agency must schedule records documenting the acquired functions and all other records not covered by the GRS within two years.

(c) If an agency needs to deviate from retention periods in the GRS.

(d) If an agency needs to change retention periods for records previously appraised as temporary by NARA.

(e) If an agency needs to change the approved disposition of records from permanent to temporary or vice versa.

(f) If an agency needs to modify the description of records because the informational content of the records and/or the function documented by the records changes.

(g) If an agency decides to change the scope of the records schedule items to include a greater or lesser aggregation of records (see § 1225.12(c)), unless § 1225.24 applies.

(h) Agencies must submit a new schedule to NARA for electronic versions of previously scheduled records if:

(1) The content and function of the records have changed significantly (e.g., the electronic records contain information that is substantially different from the information included in the hard copy series or are used for different purposes).

(2) The previously approved schedule explicitly excludes electronic records.

(3) The electronic records consist of program records maintained on an agency Web site.

(4) The electronic records consist of temporary program records maintained in a format other than scanned image AND the previously approved schedule is not media neutral.

§ 1225.24 When can an agency apply previously approved schedules to electronic records?

If the conditions specified in § 1225.22(h) do not apply, the following conditions apply:

(a) *Permanent records.* (1) The agency may apply a previously approved schedule for hard copy records to electronic versions of the permanent records when the electronic records system replaces a single series of hard copy permanent records or the electronic records consist of information drawn from multiple previously scheduled permanent series. Agencies must notify NARA (NWM) in writing of records that have been previously scheduled as permanent in hard copy form, including special media records as described in 36 CFR 1235.52. An agency should send the notification to the NARA unit that processes its schedules. The notification must be submitted within 90 days of when the electronic recordkeeping system becomes operational and must contain the:

(i) Name of agency;

(ii) Name of the electronic system;

(iii) Organizational unit(s) or agency program that records support;

(iv) Current disposition authority reference; and

(v) Format of the records (e.g., database, scanned images, digital photographs, etc.).

(2) If the electronic records include information drawn from both temporary and permanent hard copy series, an agency either may apply a previously approved permanent disposition authority, after submitting the notification required by paragraph (a)(1) or may submit a new schedule if the agency believes the electronic records do not warrant permanent retention.

(b) *Temporary still pictures, sound recordings, motion picture film, and video recordings.* The agency must apply the previously approved schedule to digital versions. If changes in the approved schedule are required, follow § 1225.26.

(c) *Scanned images of temporary records, including temporary program records.* The agency must apply the previously approved schedule. If changes in the approved schedule are required, follow § 1225.26.

(d) *Other temporary records maintained in an electronic format other than scanned images.* (1) For temporary records that are covered by an item in a General Records Schedule (other than those General Records Schedule items that exclude electronic master files and databases) or an agency-specific schedule that pertains to administrative housekeeping activities, apply the previously approved schedule. If the electronic records consist of information drawn from multiple hard copy series, apply the previously approved schedule item with the longest retention period.

(2) For temporary program records covered by a NARA-approved media neutral schedule item (i.e., the item appears on a schedule submitted to NARA for approval before December 17, 2007, that is explicitly stated to be media neutral, or it appears on a schedule submitted to NARA for approval on or after December 17, 2007, that is not explicitly limited to a specific recordkeeping medium), apply the previously approved schedule.

§ 1225.26 How do agencies change a disposition authority?

Agencies must submit an SF 115 to permanently change the approved disposition of records. Disposition authorities are automatically superseded by approval of a later SF 115 for the same records unless the later SF 115 specifies an effective date. As provided in § 1226.20(c), agencies are authorized to retain records eligible for destruction until the new schedule is approved.

(a) SFs 115 that revise previously approved disposition authorities must cite the SF 115 and item numbers to be superseded, the current printed records disposition schedule and item numbers, if any, and/or the General Records Schedules and item numbers that cover the records.

(b) Agencies must submit with the SF 115 an explanation and justification for the change.

(c) For temporary retention of records beyond their normal retention period, see § 1226.18.

(d) Agencies must secure NARA approval of a change in the period of time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States. To request approval, agencies send written requests to NARA (NWM). NARA approval is documented as an annotation to the schedule item.

PART 1226—IMPLEMENTING DISPOSITION

Sec.

Authority: 44 U.S.C. 2111, 2904, 3102, and 3301.

§ 1226.1 What are the general authorities for this part?

The statutory authorities are 44 U.S.C. 2107, 2111, 2904, 3102, 3301 and 3302.

§ 1226.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout subchapter B, including part 1226.

§ 1226.3 What standards are used as guidance for this part?

This part is in conformance with ISO 15489–1:2001, sections 8.3.7 (Retention and disposition), 8.5 (Discontinuing records systems), 9.2 (Determining how long to retain records), and 9.9 (Implementing disposition).

§ 1226.10 Must agencies apply approved schedules to their records?

The application of approved schedules is mandatory except as provided in § 1226.16 and § 1226.18. Federal records must be retained as specified in the schedule to conduct Government business, protect rights, avoid waste, and preserve permanent records for transfer to NARA.

§ 1226.12 How do agencies disseminate approved schedules?

(a) Agencies must issue disposition authorities through their internal directives system within six months of approval of the SF 115 or GRS to ensure proper distribution and application of the schedule. The directive must cite the legal authority (GRS or SF 115 and item numbers) for each schedule item covering records.

(b) Agencies must send, via link or file, an electronic copy of each published agency schedule, directive, and other policy issuance relating to records disposition to NARA at *RM.Communications@nara.gov* when the directive, manual, or policy issuance is posted or distributed.

(c) The submission must include the name, title, agency, address, and telephone number of the submitter. If the comprehensive records schedule or other policy issuance is posted on a publicly available Web site, the agency must provide the full Internet address (URL).

§ 1226.14 What are the limitations in applying approved records schedules?

Agencies must apply the approved records disposition schedules to their agency's records with the following limitations:

(a) Records described by items marked ''disposition not approved'' or ''withdrawn'' may not be destroyed until a specific disposition has been approved by NARA.

(b) Disposition authorities approved for one department or independent agency may not be applied to records of another department or agency. Departments or agencies that acquire records from another department or agency, and/or continue creating the same series of records previously created by another department or agency through interagency reorganization must submit an SF 115 to NARA for disposition authorization promptly. Until the new records schedule is approved, the records are unscheduled. See § 1225.22.

(c) Unless otherwise specified, newly approved disposition authorities apply retroactively to all existing records as described in the schedule.

(d) When required by court order (i.e., order for expungement or destruction), an agency may destroy temporary records before their NARA-authorized disposition date. In accordance with § 1230.14, an agency must notify NARA (NWM) when permanent or unscheduled records are to be destroyed in response to a court order. If the records have significant historical value, NARA will promptly advise the agency of any concerns over their destruction.

§ 1226.16 Does NARA ever withdraw disposition authority?

(a) When required to ensure the preservation of Government records, or when required by an emergency, or to maintain efficiency of Government operations, NARA will withdraw disposal authorizations in approved schedules (44 U.S.C. 2909). This withdrawal may apply to particular items on agency schedules or may apply to all existing authorizations for a specified type of record in any or all agencies.

(b) To both impose and rescind the withdrawal, NARA will notify the affected agency or agencies in writing, either by letter or NARA bulletin.

§ 1226.18 When may agencies temporarily extend retention periods?

(a) Agencies may temporarily retain records approved for destruction beyond their NARA-approved retention period if special circumstances alter the normal administrative, legal, or fiscal value of the records.

(1) Agencies must not retain records whose disposal after a specified period is required by statute, unless retention is ordered by a court.

(2) In determining whether or not to temporarily extend the retention period of records, agencies must ensure that the extension of retention is consistent with the requirement contained in 5 U.S.C. 552a (Privacy Act of 1974, as amended) that records concerning individuals are maintained only if relevant and necessary to accomplish a purpose of the agency that is required by law or executive order.

(b) If the records that are to be temporarily retained beyond their approved destruction date have been transferred to records storage facilities, agencies must notify the facility.

(c) Once the special circumstances that require extended retention of records have elapsed, agencies must destroy the records in accordance with the NARA-approved disposition instructions.

(d) Agencies must submit an SF 115 to NARA to change schedule provisions on a continuing basis in accordance with § 1225.26. Agencies may retain records eligible for destruction until the new schedule is approved.

§ 1226.20 How do agencies temporarily extend retention periods?

(a) Agencies must secure NARA written approval to retain records series or systems that are eligible for destruction under NARA-approved schedules except when:

(1) The agency has requested a change in the records schedule in accordance with § 1225.26, in which case the agency is authorized to retain records eligible for destruction until the new SF 115 is approved;

(2) The records will be needed for less than one year; or

(3) A court order requires retention of the records. Agencies must inform NARA about such court orders in writing. The notification must include a copy of the order and the information specified in § 1226.20(b)(1) through (b)(4).

(b) To request an extension, agencies must send a letter to NARA (NWM). Along with a justification, the request must include:

(1) A concise description of the records series for which the extension is requested.

(2) A citation to the agency records schedule or the General Records Schedule currently governing disposition of the records;

(3) A statement of the estimated period of time that the records will be required; and

(4) For records in the agency's custody, a statement of the current and proposed physical location of the records.

(c) Agencies must ensure that records in records storage facilities are retained for the duration of the extension.

§ 1226.22 When must agencies transfer permanent records?

All records scheduled as permanent must be transferred to the National Archives of the United States after the period specified on the SF 115 in accordance with procedures specified under § 1235.12.

§ 1226.24 How must agencies destroy temporary records?

(a) *Sale or salvage of unrestricted records.*

(1) *Paper records.* Paper records to be destroyed normally must be sold as wastepaper, or otherwise salvaged. All sales must follow the established procedures for the sale of surplus personal property. (See 41 CFR part 101—45, Sale, Abandonment, or Destruction of Personal Property.) The contract for sale must prohibit the resale of all records for use as records or documents.

(2) *Records on electronic and other media.* Records other than paper records (audio, visual, and electronic records on physical media data tapes, disks, and diskettes) may be salvaged and sold in the same manner and under the same conditions as paper records.

(b) *Destruction of unrestricted records.* Unrestricted records that agencies cannot sell or otherwise salvage must be destroyed by burning, pulping, shredding, macerating, or other suitable means.

(c) *Destruction of classified or otherwise restricted records.* If the records are restricted because they are national security classified or exempted from disclosure by statute, including the Privacy Act, or regulation:

(1) *Paper records.* For paper records, the wastepaper contractor must definitively destroy the information contained in the records by one of the means specified in paragraph (b) and their destruction must be witnessed either by a Federal employee or, if authorized by the agency, by a contractor employee.

(2) *Electronic records.* Electronic records scheduled for destruction must be disposed of in a manner that ensures protection of any sensitive, proprietary, or national security information. Magnetic recording media previously used for electronic records containing sensitive, proprietary, or national security information must not reused if the previously recorded information can be compromised by reuse in any way.

§ 1226.26 How do agencies donate temporary records?

(a) Agencies must obtain written approval from NARA before donating records eligible for disposal to an appropriate person, organization, institution, corporation, or government (including a foreign government) that has requested them. Records that are not eligible for disposal cannot be donated.

(b) Agencies request the approval of such a donation by sending a letter to NARA (NWM), 8601 Adelphi Rd., College Park, MD 20740–6001. The request must include:

(1) The name of the department or agency, and subdivisions thereof, having custody of the records;

(2) The name and address of the proposed recipient of the records;

(3) A list containing:

(i) Description of the records to be transferred,

(ii) The inclusive dates of the records,

(iii) The SF 115 or GRS and item numbers that authorize destruction of the records;

(4) A statement providing evidence:

(i) That the proposed donation is in the best interests of the Government,

(ii) That the proposed recipient agrees not to sell the records as records or documents, and

(iii) That the donation will be made without cost to the U.S. Government;

(5) A certification that:

(i) The records contain no information the disclosure of which is prohibited by law or contrary to the public interest, and/or

(ii) That records proposed for transfer to a person or commercial business are directly pertinent to the custody or operations of properties acquired from the Government, and/or

(iii) That a foreign government desiring the records has an official interest in them.

(c) NARA will determine whether the donation is in the public interest and notify the requesting agency of its decision in writing. If NARA determines such a proposed donation is contrary to the public interest, the agency must destroy the records in accordance with the appropriate disposal authority.

PART 1227—GENERAL RECORDS SCHEDULES

Sec.

Authority: 44 U.S.C. 3303a(d).

§ 1227.1 What are the authorities for Part 1227?

The statutory authority for this part is 44 U.S.C. 3303a(d).

§ 1227.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1227.

§ 1227.3 What standards are used as guidelines for this part?

These regulations are in conformance with ISO 15489–1:2001, paragraphs 9.2 (Determining how long to retain records) and 9.9 (Implementing disposition).

§ 1227.10 What are General Records Schedules (GRS)?

General Records Schedules (GRS) are schedules issued by the Archivist of the United States that authorize, after specified periods of time, the destruction of temporary records or the transfer to NARA of permanent records that are common to several or all agencies.

§ 1227.12 When must agencies apply the GRS?

(a) Agencies apply the disposition instructions of the GRS, as provided in the following table.

When NARA issues a new or revised GRS, and	Then
(1) The new or revised GRS states that the provisions must be followed without exception.	All agencies must follow the disposition instructions of the GRS, regardless of whether or not they have existing schedules.
(2) Your agency does not have an existing schedule for these records	Your agency must follow the disposition instructions of the GRS. If your agency's needs require a different retention period, then your agency must submit an SF 115 in accordance with 36 CFR part 1225, and a justification for the deviation.

When NARA issues a new or revised GRS, and	Then
(3) When your agency has an existing schedule and the new or revised GRS permits use of existing agency-specific schedules.	Your agency may follow the disposition instructions in either the GRS or the existing agency schedule, but it must follow the same instructions throughout the agency and instruct its staff to do so. If your agency chooses to follow its own schedule, then it must notify NARA within 90 days of the issuance of the new or revised GRS.
(4) Your agency does not create or maintain any of the records addressed by that GRS.	No action is required.

(b) Except as provided in the table in paragraph (a), agencies must incorporate in their disposition manual or otherwise disseminate new and revised GRS within 6 months after NARA has issued the GRS Transmittal.

(c) NARA may, at its discretion, apply the provisions of the GRS to records in its legal custody, subject to the provisions of § 1235.34.

§ 1227.14 How do I obtain copies of the GRS?

(a) The GRS and instructions for their use are available online at *http://www.archives.gov/records-mgmt/ardor/records-schedules.html*. They are also available by writing to the National Archives and Records Administration, Modern Records Program (NWM), 8601 Adelphi Road, College Park, MD 20740–6001.

(b) NARA distributes new and revised GRS to Federal agencies under sequentially numbered GRS transmittals.

PART 1228—LOAN OF PERMANENT AND UNSCHEDULED RECORDS

Sec.

Authority: 44 U.S.C. 2904.

§ 1228.1 What are the authorities for this part?

The statutory authority for this part is 44 U.S.C. 2904.

§ 1228.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in Part 1228.

§ 1228.10 When do loans of permanent and unscheduled records require NARA approval?

Loans of permanent or unscheduled records between Federal agencies or to non-Federal recipients require prior written approval from NARA. The loan of permanent or unscheduled records increases the likelihood of the records becoming lost, misplaced, or incorporated into other files. Agencies should consider reproducing or scanning the records in response to a loan request.

§ 1228.12 How do agencies obtain approval to loan permanent or unscheduled records?

(a) An agency proposing to loan permanent or unscheduled records must prepare a written loan agreement with the proposed recipient. The agreement must include:

(1) The name of the department or agency and subdivisions having custody of the records;

(2) The name and address of the proposed recipient of the records;

(3) A list containing:

(i) Identification of the records to be loaned, by series or system;

(ii) The inclusive dates for each series or system;

(iii) The volume and media of the records to be loaned; and

(iv) The NARA disposition job (SF 115) and item numbers covering the records, if any.

(4) A statement of the purpose and duration of the loan;

(5) A statement specifying any restrictions on the use of the records and how these restrictions will be imposed by the recipient;

(6) A certification that the records will be stored in areas with security and environmental controls equal to those specified in Part 1234; and

(7) A signature block for the Archivist of the United States. The loan must not take place until the Archivist has signed the agreement.

(b) The agency must send a written request to NARA (NWM) transmitting the proposed loan agreement, citing the rationale for not providing copies in place of the original records, and specifying the name, title, and telephone number of an agency contact. The request must be submitted or approved by the individual authorized to sign records schedules as described in § 1220.34(b).

§ 1228.14 How will NARA handle a loan request?

(a) NARA will review the request and, if it is approved, return the signed agreement to the agency within 45 days.

(b) NARA will deny the request if the records are due or past due to be transferred to the National Archives of the United States in accordance with Part 1235, if the loan would endanger the records, or if the loan would otherwise violate the regulations in 36 CFR chapter XII, subchapter B. NARA will notify the agency in writing if it disapproves the loan and the reasons for the disapproval of the loan.

§ 1228.16 When must agencies retrieve records that have been loaned?

An agency must contact the recipient of loaned permanent or unscheduled records 30 days prior to the expiration of the loan period (as stated in the loan agreement) to arrange for the return of the records. If the agency extends the duration of the loan, it must notify NARA (see § 1228.12(b)) in writing, specifying the reason for the extension and providing the new expiration date of the loan.

PART 1229—EMERGENCY AUTHORIZATION TO DESTROY RECORDS

Sec.

Authority: 44 U.S.C. 3310 and 3311.

§ 1229.1 What is the scope of this part?

This part describes certain conditions under which records may be destroyed without regard to the provisions of part 1226.

§ 1229.2 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 3310 and 3311.

§ 1229.3 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1229.

§ 1229.10 What steps must be taken when records are a continuing menace to life, health, or property?

When the Archivist and the agency that has custody of them jointly determine that records in the custody of an agency of the U.S. Government are a continuing menace to human health or to property, the Archivist will authorize the agency to eliminate the menace immediately by any method necessary:

(a) When an agency identifies records that pose a continuing menace to human health or life, or to property, the records officer or other designee must immediately notify NARA (NWM). The notice must specify the description of the records, their location and quantity, and the nature of the menace. Notice may be given via e-mail to *RM.Communications@nara.gov*, or via phone or fax to NWM or the NARA Regional Administrator.

(b) If NARA concurs in a determination that the records must be destroyed, the NARA will notify the agency to immediately destroy the records.

(c) If NARA does not concur that the menace must be eliminated by destruction of the records, NARA will advise the agency on remedial action to address the menace.

§ 1229.12 What are the requirements during a state of war or threatened war?

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient administrative, fiscal, legal, historical, or other value to warrant their continued preservation.

(b) Within six months after the destruction of any records under this authorization, the agency official who directed the destruction must submit to NARA (NWM) a written statement explaining the reasons for the destruction and a description of the records and how, when, and where the destruction was accomplished.

PART 1230—UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

Sec.

Authority: 44 U.S.C. 3105 and 3106.

§ 1230.1 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 3105 and 3106.

§ 1230.2 What standards are used as guidelines for this part?

These regulations conform to guidance provided in ISO 15489–1:2001, par. 6.3 (Responsibilities), 7.2 (Characteristics of a record), 8.2 (Records systems characteristics), and 8.3 (Designing and implementing records systems).

§ 1230.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout subchapter B, including part 1230.

(b) As used in part 1230—

Alteration means the unauthorized annotation, addition, or deletion to a record.

Deface means to obliterate, mar or spoil the appearance or surface of a record that impairs the usefulness or value of the record.

Removal means selling, donating, loaning, transferring, stealing, or otherwise allowing a record to leave the custody of a Federal agency without the permission of the Archivist of the United States.

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the NARA-approved retention period of a temporary record (other than court-ordered disposal under § 1226.14(d)); and disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records.

§ 1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

The heads of Federal agencies must:

(a) Prevent the unlawful or accidental removal, defacing, alteration, or destruction of records. Section 1222.24(a)(6) prohibits removing records from the legal custody of the agency. Records must not be destroyed except under the provisions of NARA-approved agency records schedules or the General Record Schedules issued by NARA;

(b) Take adequate measures to inform all employees and contractors of the provisions of the law relating to unauthorized destruction, removal, alteration or defacement of records;

(c) Implement and disseminate policies and procedures to ensure that records are protected against unlawful or accidental removal, defacing, alteration and destruction; and

(d) Direct that any unauthorized removal, defacing, alteration or destruction be reported to NARA.

§ 1230.12 What are the penalties for unlawful or accidental removal, defacing, alteration, or destruction of records?

The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

§ 1230.14 How do agencies report incidents?

The agency must report promptly any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to NARA (NWM).

(a) The report must include:

(1) A complete description of the records with volume and dates if known;

(2) The office maintaining the records;

(3) A statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records;

(4) A statement of the safeguards established to prevent further loss of documentation; and

(5) When appropriate, details of the actions taken to salvage, retrieve, or reconstruct the records.

(b) The report must be submitted or approved by the individual authorized to sign records schedules as described in § 1220.34(b).

§ 1230.16 How does NARA handle allegations of unlawful or accidental removal, defacing, alteration, or destruction?

Upon receiving any credible information that records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, NARA will contact the agency:

(a) If the threat has not yet resulted in damage, removal, or destruction, NARA will contact the agency by telephone promptly and follow up in writing within five business days.

(b) If records have allegedly been damaged, removed, or destroyed, NARA will notify the agency in writing promptly with a request for a response within 30 days.

§ 1230.18 What assistance is available to agencies to recover unlawfully removed records?

NARA will assist the head of the agency in the recovery of any unlawfully removed records, including by contacting the Attorney General, if appropriate.

PART 1231—TRANSFER OF RECORDS FROM THE CUSTODY OF ONE EXECUTIVE AGENCY TO ANOTHER

Sec.

Authority: 44 U.S.C. 2908.

§ 1231.1 What is the authority for this part?

The authority for this part is 44 U.S.C. 2908.

§ 1231.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including this part.

§ 1231.10 Who has the authority to approve the transfer of records from the custody of one executive agency to another?

The Archivist of the United States must approve in writing the transfer of records from the custody of one executive agency to another, except as provided in § 1231.18(a).

§ 1231.12 How do executive agencies request to transfer records to another executive agency?

An executive agency that proposes to transfer records to another agency must request approval of the transfer of records in writing from NARA (NWM). The request must include:

(a) A concise description of the records to be transferred, including the volume in cubic feet;

(b) A statement of the restrictions imposed on the use of records;

(c) A statement of the agencies and persons using the records and the purpose of this use;

(d) A statement of the current and proposed physical and organizational locations of the records;

(e) A justification for the transfer including an explanation of why it is in the best interests of the Government; and

(f) Copies of the concurrence in the transfer by the heads of all agencies involved in the proposed transfer.

§ 1231.14 May the records of terminated agencies be transferred to another agency?

The records of executive agencies whose functions are terminated or are in process of liquidation may be transferred to another executive agency that inherits the function. All such transfers must be made in accordance with the provisions of this part 1231.

§ 1231.16 What restrictions are there on use of transferred records?

Restrictions imposed under a statute or Executive order must continue to be imposed after the transfer. Restrictions imposed by agency determination must also continue, unless the restrictions are removed by agreement between the agencies concerned.

§ 1231.18 When are records transferred between executive agencies without NARA approval?

Records are transferred between executive agencies without NARA approval when:

(a) Records are transferred to a NARA or agency-operated records centers or to the National Archives of the United States in accordance with parts 1232, 1233, and 1235;

(b) Temporary records are loaned for official use;

(c) The transfer of records or functions or both is required by statute, Executive Order, Presidential reorganization plan, or Treaty, or by specific determinations made thereunder;

(d) The records are transferred between two components of the same Executive department; or

(e) Records accessioned into the National Archives of the United States are later found to lack sufficient value for continued retention in the National Archives. The disposition of such records is governed by § 1235.34.

PART 1232—TRANSFER OF RECORDS TO RECORDS STORAGE FACILITIES

Sec.

Authority: 44 U.S.C. 2907 and 3103.

§ 1232.1 What are the authorities for Part 1232?

The statutory authorities for this part are 44 U.S.C. 2907 and 3103.

§ 1232.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including Part 1232.

§ 1232.3 What standards are used as guidelines for this part?

These regulations conform to guidance provided in ISO 15489–1:2001 Paragraphs 7.1 (Principles of records management programmes), 8.3.3 (Physical storage medium and protection), 8.3.6 (Access, retrieval and use), 8.3.7 (Retention and disposition), 9.6 (Storage and handling), and 9.8.3 (Location and tracking) apply to records creation and maintenance.

§ 1232.10 Where can a Federal agency transfer records for storage?

Federal agencies may store records in the following types of records storage facilities, so long as the facilities meet the facility standards in 36 CFR part 1234. Records transferred to a records storage facility remain in the legal custody of the agency.

(a) NARA Federal Records Centers. NARA owns or operates records centers for the storage, processing, and servicing of records for Federal agencies under the authority of 44 U.S.C. 2907. These NARA records centers include a National Personnel Records Center that contains designated records of the

Department of Defense and the Office of Personnel Management and other designated records pertaining to former Federal civilian employees. A list of NARA Federal Records Centers is available from the NARA Web site at *http://www.archives.gov/locations/index.html* and also in the U.S. Government Manual, which is for sale from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328, and is available on the Internet from *http://www.access.gpo.gov/nara/index.html.*

(b) Records centers operated by or on behalf of one or more Federal agencies other than NARA.

(c) Commercial records storage facilities operated by private entities.

§ 1232.12 Under what conditions may Federal records be stored in records storage facilities?

The following chart shows what records can be stored in a records storage facility and the conditions that apply:

Type of record	Conditions
(1) Permanent records	Any storage facility that meets the provisions of 36 CFR part 1234.
(2) Unscheduled records	(i) Any storage facility that meets the provisions of 36 CFR part 1234. (ii) Also requires prior notification to NARA (see § 1232.14(b)).
(3) Temporary records (excluding Civilian Personnel Records)	Any storage facility that meets the provisions of 36 CFR part 1234.
(4) Vital records	Storage facility must meet the provisions of 36 CFR parts 1223 and 1234.
(5) Civilian Personnel Records	May only be transferred to the National Personnel Records Center (NPRC), St. Louis, MO (see part 1233).

§ 1232.14 What requirements must an agency meet before it transfers records to a records storage facility?

An agency must meet the following requirements before it transfers records to a records storage facility:

(a) Ensure that the requirements of 36 CFR part 1234 of this part are met. Special attention must be paid to ensuring appropriate storage conditions for records on non-paper based media (e.g., film, audio tape, magnetic tape), especially those that are scheduled for long-term or permanent retention, as those records typically require more stringent environmental controls (see 36 CFR parts 1236 and 1237).

(b) To transfer unscheduled records, notify NARA (NWM) in writing prior to the transfer. The notification must identify the records storage facility and include a copy of the information required by § 1232.16(a).

(c) For all records being transferred, create documentation sufficient to identify and locate files. (See § 1232.16.)

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained as required by 36 CFR 1226.22.

§ 1232.16 What documentation must agencies create before it transfers records to a records storage facility?

(a) Documentation must include for each individual records series spanning one or more consecutive years transferred to storage:

(i) Creating office;

(ii) Series title;

(iii) Description (in the case of permanent or unscheduled records, the description must include a folder title list of the box contents or equivalent detailed records description);

(iv) Date span;

(v) Physical form and medium of records (e.g., paper, motion picture film, sound recordings, photographs or digital images);

(vi) Volume;

(vii) Citation to NARA-approved schedule or agency records disposition manual (unscheduled records must cite the date the agency notified NARA or, if available, the date the SF 115 was submitted to NARA);

(viii) Restrictions on access if applicable;

(ix) Disposition (''permanent,'' ''temporary,'' or ''unscheduled; SF 115 pending'');

(x) Date of disposition action (transfer to the National Archives of the United States or destruction);

(xi) Physical location, including name and address of facility; and

(xii) Control number or identifier used to track records.

(b) In the case of permanent and unscheduled records, provide copies of such documentation to NARA and advise NARA in writing of the new location whenever the records are moved to a new storage facility. For permanent records, the agency must transmit this documentation to NARA (NWM) no later than 30 days after records are transferred to the agency records center or commercial records storage facility.

(1) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1226.18.

(2) Transfer permanent records to the National Archives of the United States in accordance with 36 CFR part 1235.

§ 1232.18 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Federal agencies must use the following procedures to transfer records to an agency records center or commercial records storage facility:

(a) Agreements with agency records centers or contracts with commercial records storage facilities must incorporate the standards in Part 1234 and allow for inspections by the agency and NARA to ensure compliance. An agency must remove records promptly from a facility if deficiencies identified during an inspection are not corrected within six months of issuance of the report.

(b) For temporary records, the agency must make available to NARA on request the documentation specified in § 1232.16.

(c) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1226.18.

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained as required by 36 CFR 1226.22.

(1) Agencies must establish procedures that ensure that temporary records are destroyed in accordance with NARA-approved schedules and that NARA-approved changes to schedules, including the General Records Schedules, are applied to records in agency records centers or commercial records storage facilities in a timely fashion. Procedures must include a requirement that the agency records center or commercial records

storage facility notify agency records managers or the creating office prior to the disposal of temporary records unless disposal of temporary records is initiated by the agency.

(2) Move temporary records that are subsequently reappraised as permanent to a facility that meets the environmental control requirements for permanent records in § 1234.3 within one year of their re-appraisal, if not already in such a facility. (Paper-based permanent records in an existing records storage facility that does not meet the environmental control requirements in § 1234.3(b) on October 1, 2009, must be moved from that facility no later than February 28, 2010.)

(3) Agencies must establish procedures to ensure that the agency records centers or commercial records storage facilities transfer permanent records to the National Archives of the United States as individual series spanning one or more years and in accordance with the provisions of Part 1235.

(e) Agencies must ensure that records that are restricted because they are security classified or exempt from disclosure by statute, including the Privacy Act (5 U.S.C. 552a), or regulation are stored and maintained in accordance with applicable laws, executive orders, or regulations.

(f) Agencies must ensure that temporary records, including restricted records (security classified or exempted from disclosure by statute, including the Privacy Act, or regulation), are destroyed in accordance with the requirements specified in § 1226.24.

(g) Agencies must ensure that emergency operating vital records, as defined in 36 CFR part 1223, that are transferred to an agency records center or commercial records storage facility are available in accordance with 36 CFR 1223.24.

(h) Provide access to appropriate NARA staff to records wherever they are located in order to conduct an inspection in accordance with 36 CFR part 1239 or to process a request for records disposition authority.

PART 1233—TRANSFER, USE, AND DISPOSITION OF RECORDS IN A NARA FEDERAL RECORDS CENTER

Sec.

Authority: 44 U.S.C. 2907 and 3103.

§ 1233.1 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 2907 and 3103.

§ 1233.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including Part 1233.

§ 1233.3 What standards are used as guidelines for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 7.1 (Principles of records management programmes), 8.3.3 (Physical storage medium and protection), 8.3.6 (Access, retrieval and use), 8.3.7 (Retention and disposition), 9.6 (Storage and handling), and 9.8.3 (Location and tracking) apply to records creation and maintenance.

§ 1233.10 How does an agency transfer records to a NARA Federal Records Center?

An agency transfers records to a NARA Federal Records Center using the following procedures:

(a) General. NARA will ensure that its records centers meet the facilities standards in part 1234 of this part, which meets the agency's obligation in § 1232.14(a).

(b) NARA Federal Records Centers may under some circumstances accept records that pose a threat to other records or to the health and safety of users including hazardous materials such as nitrate film, radioactive or chemically contaminated records, records exhibiting active mold growth, or untreated insect or rodent infiltrated records. Agencies may contact the NARA Federal Records Center for technical advice on treating such records.

(c) Agencies must use their designated NARA Federal Records Center(s) as specified in their agency agreement with NARA (FRCP) for the storage of records.

(d) Transfers to NARA Federal Records Centers must be preceded by the submission of a Standard Form (SF) 135, Records Transmittal and Receipt. Preparation and submission of this form will meet the requirements for records description provided in § 1232.14(c), except the folder title list required for permanent and unscheduled records. A folder title list is also required for records that are scheduled for sampling or selection after transfer.

(e) A separate SF 135 is required for each individual records series having the same disposition authority and disposition date.

(f) For further guidance on transfer of records to a NARA Federal Records Center, consult the NARA Federal Records Centers Program Web site (*http://www.archives.gov/frc/toolkit.html#transfer*), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR) or individual NARA Federal Records Centers (*http://www.archives.gov/frc/locations.html*).

§ 1233.12 How does an agency transfer vital records to a NARA Federal Records Center?

For assistance on selecting an appropriate site among NARA facilities for storage of vital records, agencies may contact NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001. The actual transfers are governed by the general requirements and procedures in this part and 36 CFR part 1223.

§ 1233.14 What personnel records must be transferred to the National Personnel Records Center (NPRC)?

(a) Civilian personnel files:

(1) General Records Schedules 1 and 2 specify that certain Federal civilian personnel, medical, and pay records must be centrally stored at the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118. An agency must transfer the following four types of records to the NPRC:

(i) Official personnel folders of separated Federal civilian employees;

(ii) Service record cards of employees who separated or transferred on or before December 31, 1947;

(iii) Audited individual earnings and pay cards and comprehensive payrolls; and

(iv) Employee medical folders of separated Federal civilian employees.

(b) The following types of medical treatment records are transferred to the NPRC:

(1) Clinical (hospital inpatient) records created for all categories of patients receiving inpatient treatment and extended ambulatory procedures (active duty military personnel, retirees, and dependents); and

(2) Medical treatment records (outpatient) for military retirees, dependents, and others treated at military health care facilities.

§ 1233.16 How does an agency transfer records to the National Personnel Records Center (NPRC)?

Agencies must use the following procedures when transferring records to the NPRC:

(a) *Civilian personnel files.* (1) Forward the official personnel folder (OPF) and the employee medical folder (EMF) to the National Personnel Records Center at the same time.

(2) Transfer EMFs and OPFs in separate folders.

(3) Retirement of individual folders is based on the date of separation and should occur within 90 to 120 days after the employee separates from Federal service. Civilian personnel records must be retired in Standard Form 66, Official Personnel Folder, or Standard Form 66C, Merged Records Personnel Folder, as appropriate.

(4) Consult the Office of Personnel Management Web site (*http://www.opm.gov/feddata/html/opf.htm*) for the OPM publication The Guide to Personnel Recordkeeping for procedures on the transfer of OPFs and EMFs. (The Guide is also available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328.)

(b) *Military medical records.* Please contact NPRC staff for information on transferring medical records.

(c) *Other guidance.* For further guidance consult the NPRC Web site (*http://www.archives.gov/facilities/mo/st_louis.html*).

§ 1233.18 What reference procedures are used in NARA Federal Records Centers?

(a) Agency records transferred to a NARA Federal Records Center remain in the legal custody of the agency. NARA acts as the agency's agent in maintaining the records. NARA will not disclose the record except to the agency that maintains the record, or under rules established by that agency which are consistent with existing laws.

(b) For general reference requests agencies may use the Center Information Processing System (CIPS), the Optional Form 11, Reference Request—Federal Records Centers, a form jointly designated by that agency and NARA, or their electronic equivalents.

(c) For civilian personnel records, agencies must use the following forms:

(1) Standard Form 127, Request for Official Personnel Folder (Separated Employee), to request transmission of personnel folders of separated employees stored at the National Personnel Records Center. Additional instructions on requesting OPFs are available online at *http://www.archives.gov/st-louis/civilian-personnel/federal-agencies.html.*

(2) Standard Form 184, Request for Employee Medical Folder (Separated Employee), to request medical folders stored at the National Personnel Records Center. Additional instructions on requesting EMFs are available online at *http://www.archives.gov/st-louis/civilian-personnel/federal-agencies.html.*

(3) Optional Form 11, Reference Request— Federal Records Center to request medical records transferred to other NARA Federal Records Centers prior to September 1, 1984. The request must include the name and address of the agency's designated medical records manager

(d) For military personnel records reference requests, the following forms must be used:

(1) Federal agencies must use Standard Form (SF) 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records); authorized agencies requesting the loan of a military personnel record may order records using eMilrecs (electronic equivalent of the SF 180). Additional information is available online at: *http://www.archives.gov/st-louis/military-personnel/agencies/ompf-fed-agency.html.*

(2) A military veteran or the next of kin of a deceased, former member of the military may order military personnel records through the submission of an SF 180 or an online records request system. Additional information is available online at: *http://www.archives.gov/veterans/evetrecs.*

(3) Members of the public and non-governmental organizations also may obtain copies of SF 180 by submitting a written request to the National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132. OMB Control Number 3095–0029 has been assigned to the SF 180.

(e) Federal agencies must use an SF 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of the SF 180 to the public to aid in inquiries. Copies of SF 180 are available at: *http://www.archives.gov/st-louis/military-personnel/standard-form-180.html#sf.*

(f) For further guidance on requesting records from a NARA Federal Records Center, consult the NARA Federal Records Centers Program Web site (*http://www.archives.gov/frc/toolkit.html#retrieval*), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), or individual NARA Federal Records Centers (*http://www.archives.gov/frc/locations.html*), or the Washington National Records Center (NWMW).

§ 1233.20 How are disposal clearances managed for records in NARA Federal Records Centers?

(a) The National Personnel Records Center will destroy records covered by General Records Schedules 1 and 2 in accordance with those schedules without further agency clearance.

(b) NARA Federal Records Centers will destroy other eligible Federal records only with the written concurrence of the agency having legal custody of the records.

(c) NARA Federal Records Centers will maintain documentation on the final disposition of records, as required in 36 CFR 1226.22(c).

(d) When NARA approves an extension of retention period beyond the time authorized in the records schedule for records stored in NARA Federal Records Centers, NARA will notify those affected records centers to suspend disposal of the records (see § 1226.18).

(e) For further guidance on records disposition, consult the NARA Federal Records Centers Program Web site (*http://www.archives.gov/frc/toolkit.html#disposition*), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR) or individual NARA Federal Records Centers (*http://www.archives.gov/frc/locations.html*), individual NARA regional facilities, or the Washington National Records Center (NWMW).

PART 1234—FACILITY STANDARDS FOR RECORDS STORAGE—[RESERVED]

PART 1235—TRANSFER OF RECORDS TO THE NATIONAL ARCHIVES OF THE UNITED STATES

Subpart A—General Transfer Requirements

Sec.

Authority: 44 U.S.C. 2107 and 2108.

Subpart A—General Transfer Requirements

§ 1235.1 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 2107 and 2108.

§ 1235.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1235.

§ 1235.3 What standards are used as guidance for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 8.3 (Designing and implementing records systems), 9.6 (Storage and handling), and 9.7 (Access) are particularly relevant to this part.

§ 1235.4 What publications are incorporated by reference in this part?

The ANSI and ISO publications cited in this section are available from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th floor, New York, NY 10036 or electronically at *http://www.ansi.org/*. The FIPS standard cited in this paragraph is available from the National Technical Information Service, Department of Commerce, Springfield, VA 22161. All these standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

ANSI X3.39–1986, American National Standard: Recorded Magnetic Tape for Information Interchange (1600 CPI, PE).

ANSI X3.54–1986, American National Standard: Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording).

ANSI X3.180–1990, American National Standard: Magnetic Tape and Cartridge for Information Interchange—18–Track, Parallel, ½ inch (12.65 mm), 37871 cpi (1491 cpmm), Group-Coded—Requirements for Recording.

ANSI/NISO/ISO 9660–1990, American National Standard for Volume and File Structure of CD–ROM for Information Exchange.

FIPSPUB 173–1, Spatial Data Transfer Standard (SDTS).

ISO/IEC 10918–1: Information Technology—Digital Compression and Coding of Continuous-tone Still Images (1994).

ISO/IEC 15307:1997, First edition, December 1, 1997, Information technology—Data interchange on 12.7 mm 128-track magnetic tape cartridges—DLT 4 format.

ISO/IEC 15896:1999, First edition, December 15, 1999, Information technology—Data interchange on 12.7 mm 208-track magnetic tape cartridges—DLT 5 format.

ISO/IEC 16382:2000, First edition, May 15, 2000, Information technology—Data interchange on 12.7 mm 208-track magnetic tape cartridges—DLT 6 format.

§ 1235.10 What records do agencies transfer to the National Archives of the United States?

Agencies must transfer to the National Archives of the United States records that have been scheduled as permanent on an SF 115, Request for Records Disposition Authority, records that are designated as permanent in a General Records Schedule; and, when appropriate, records that are accretions to holdings (continuations of series already accessioned.)

§ 1235.12 When must agencies transfer records to the National Archives of the United States?

Permanent records must be transferred to the National Archives of the United States when:

(a) The records are eligible for transfer based on the transfer date specified in a NARA-approved records schedule, or

(b) The records have been in existence for more than 30 years (see also § 1235.14).

§ 1235.14 May agencies retain records for the conduct of regular agency business after they are eligible for transfer?

(a) Agencies may retain records longer than specified on a records disposition schedule only with written approval from NARA.

(b) If the agency determines that the records are needed for the conduct of regular business, the records officer must submit to NARA (NWM) a written request certifying continuing need. This certification must:

(1) Include a comprehensive description and location of records to be retained;

(2) Cite the NARA-approved disposition authority;

(3) Describe the current business for which the records are required;

(4) Estimate the length of time the records will be needed (if no date is provided by the agency, approved certification requests will be effective for a maximum of five years);

(5) Explain why agency needs cannot be met by NARA reference services or copies of records deposited in the National Archives of the United States; and

(6) If records are retained to enable routine public reference by the agency rather than NARA, cite the statutory authority authorizing this agency activity.

§ 1235.16 How will NARA respond to an agency's request to retain records?

(a) Approval. NARA will provide written approval of the request to retain the records for the specified period within 30 days of receipt of the request.

(b) Disapproval. NARA will provide written disapproval of an agency's request within 30 days. Requests will be denied if the agency is retaining the records primarily to:

(1) Provide access services to persons outside the agency that can be provided by NARA, or

(2) Function as an agency archives, unless specifically authorized by statute or by NARA.

§ 1235.18 How do agencies transfer records to the National Archives of the United States?

Agencies transfer records by submitting a signed SF 258, Agreement to Transfer Records to the National Archives of the United States. Each SF 258 must correlate to a specific records series or other aggregation of records, as identified in an item on the SF 115 or cited on the SF 258.

§ 1235.20 How do agencies indicate that transferred records contain information that is restricted from public access?

When completing an SF 258, agencies must indicate restrictions on the use and examination of records and attach a written justification. The justification must cite the statute or Freedom of Information Act exemption (5 U.S.C. 552(b)), as amended, that authorizes the restrictions.

§ 1235.22 When does legal custody of records transfer to NARA?

Legal custody of records passes from the agency to NARA when the appropriate NARA official signs the SF 258 acknowledging receipt of the records.

Subpart B—Administration of Transferred Records

§ 1235.30 How may records in the National Archives of the United States be used?

(a) NARA will enforce restrictions that are consistent with the Freedom of Information Act (5 U.S.C. 552) for both official use of the records by Federal agencies and research by the public.

(b) NARA regulations in Subchapter C of this chapter apply to Federal agency personnel using transferred records for official Government purposes, and to the public at large.

§ 1235.32 How does NARA handle restrictions on transferred records?

(a) *For records less than 30 years old.* Unless required by law, NARA will remove or relax restrictions on transferred records less than 30 years old only with the written concurrence of the transferring agency or, if applicable, its successor agency. If the transferring agency no longer exists, and there is no successor, the Archivist may relax, remove, or impose restrictions to serve the public interest.

(b) *For records more than 30 years old.*

(1) After records are more than 30 years old, most statutory and other restrictions on transferred records expire. NARA, however, after consulting with the transferring agency, may keep the restrictions in force for a longer period.

(2) See Part 1256 of this chapter for restrictions on specific categories of records, including national security classified information and information that would invade the privacy of an individual, that NARA restricts beyond 30 years.

§ 1235.34 May NARA destroy transferred records?

NARA will not destroy records transferred to NARA's custody except:

(a) With the written concurrence of the agency or its successor, or

(b) As authorized on an SF 258.

Subpart C—Transfer Specifications and Standards

§ 1235.40 What records are covered by additional transfer requirements?

In addition to complying with subparts A and B of this part, agencies must follow the specifications and requirements in this subpart when transferring audiovisual, cartographic, architectural, and electronic records to the National Archives of the United States. In general, such records must be transferred to the National Archives of the United States as soon as they become inactive or whenever the agency cannot provide proper care and handling of the records, including adequate storage conditions (see parts 1236 and 1237 of this chapter).

§ 1235.42 What specifications and standards for transfer apply to audiovisual records, cartographic, and related records?

In general the physical types described below comprise the minimum record elements that are needed for future preservation, duplication, and reference for audiovisual records, cartographic records, and related records.

(a) *Motion pictures.*

(1) Agency-sponsored or produced motion picture films (e.g., public information films) whether for public or internal use:

(i) Original negative or color original plus separate optical sound track;

(ii) Intermediate master positive or duplicate negative plus optical track sound track; and,

(iii) Sound projection print and video recording, if they exist.

(2) Agency-acquired motion picture films: Two projection prints in good condition or one projection print and one videotape.

(3) Unedited footage, outtakes, and trims (the discards of film productions) that are properly arranged, labeled, and described and show unstaged, unrehearsed events of historical interest or historically significant phenomena:

(i) Original negative or color original; and

(ii) Matching print or videotape.

(b) *Video recordings.*

(1) For videotape, the original or earliest generation videotape and a copy for reference. Agencies must comply with requirements in 36 CFR 1237.12(d) for original videotapes, although VHS copies can be transferred as reference copies.

(2) For video discs, the premaster videotape used to manufacture the video disc and two copies of the disc. Agencies must consult NARA (NWCS) before initiating transfers of video discs that depend on interactive software and nonstandard equipment.

(c) *Still pictures.*

(1) For analog black-and-white photographs, an original negative and a captioned print. The captioning information may be maintained in another file such as a database if the file number correlation is clear. If the original negative is nitrate, unstable acetate, or glass based, the agency must also transfer a duplicate negative on a polyester base.

(2) For analog color photographs, the original color negative, color transparency, or color slide; a captioned print (or captioning information maintained in another file if the file number correlation is clear); and a duplicate negative, or slide, or transparency, if they exist.

(3) For slide sets, the original and a reference set, and the related audio recording (in accordance with paragraph (e) of this section) and script.

(4) For other pictorial records such as posters, original art work, and filmstrips, the original and a reference copy.

(d) *Digital photographic records.* See the digital image transfer standard ''Expanding Acceptable Transfer Requirements: Transfer Instructions for Permanent Electronic Records—DIGITAL PHOTOGRAPHIC RECORDS'' page at *http://www.archives.gov/records-mgmt/initiatives/digital-photo-records.html.* See also 36 CFR 1235.48(e) and 1235.50(e) for transfer requirements for digital photographic records.

(e) *Sound recordings.*

(1) Disc recordings.

(i) For compact discs, the origination recording regardless of form and two compact discs.

(ii) For analog disc recordings, the master tape and two disc pressings of each recording, typically a vinyl copy for playback at 33⅓ revolutions per minute (rpm).

(2) For analog audio recordings on magnetic tape (open reel, cassette, or cartridge), the original tape, or the earliest available generation of the

recording, and a subsequent generation copy for reference. Agencies must comply with the requirements in 36 CFR 1237.12(c) for audio recordings.

(e) *Finding aids and production documentation.* The following records must be transferred to the National Archives of the United States with the audiovisual records to which they pertain.

(1) Existing finding aids such as data sheets, shot lists, continuities, review sheets, catalogs, indexes, list of captions, and other documentation that are needed or useful to identify or retrieve audiovisual records. Agencies must consult NARA (NWCS) concerning transfer of finding aids that do not meet the requirements of this part for electronic records.

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and appropriate documentation bearing on the origin, acquisition, release, and ownership of the production.

(f) *Maps and charts.*

(1) Manuscript maps; printed and processed maps on which manuscript changes, additions, or annotations have been made for record purposes or which bear manuscript signatures to indicate official approval; and single printed or processed maps that have been attached to or interfiled with other documents of a record character or in any way made an integral part of a record.

(2) Master sets of printed or processed maps issued by the agency. A master set must include one copy of each edition of a printed or processed map issued.

(3) Paper copies of computer-related and computer-plotted maps that can no longer be reproduced electronically.

(4) Index maps, card indexes, lists, catalogs, or other finding aids that may be helpful in using the maps transferred.

(5) Records related to preparing, compiling, editing, or printing maps, such as manuscript field notebooks of surveys, triangulation and other geodetic computations, and project folders containing agency specifications for creating the maps.

(g) *Aerial photography and remote sensing imagery, including:*

(1) Vertical and oblique negative aerial film created using conventional aircraft.

(2) Annotated copy negatives, internegatives, rectified negatives, and glass plate negatives from vertical and oblique aerial film created using conventional aircraft.

(3) Annotated prints from aerial film created using conventional aircraft.

(4) Infrared, ultraviolet, multispectral (multiband), video, imagery radar, and related tapes, converted to a film base.

(5) Indexes and other finding aids in the form of photo mosaics, flight line indexes, coded grids, and coordinate grids.

(h) *Architectural and related engineering drawings, including:*

(1) Design drawings, preliminary and presentation drawings, and models that document the evolution of the design of a building or structure.

(2) Master sets of drawings that document both the initial design and construction and subsequent alterations of a building or structure. This category includes final working drawings, ''as-built'' drawings, shop drawings, and repair and alteration drawings.

(3) Drawings of repetitive or standard details of one or more buildings or structures.

(4) ''Measured'' drawings of existing buildings and original or photocopies of drawings reviewed for approval.

(5) Related finding aids and specifications to be followed.

(i) *Digital geospatial data records.* See § 1235.48(c) for transfer requirements for digital geospatial data records.

§ 1235.44 What general transfer requirements apply to electronic records?

(a) Each agency must retain a copy of permanent electronic records that it transfers to NARA until it receives official notification that NARA has assumed responsibility for continuing preservation of the records.

(b) When transferring electronic records, the agency must consult with NARA (NWCS for digital photographs and accompanying metadata, NWME for other electronic records) for guidance when transferring these types of electronic records in forms or formats other than those prescribed in this subpart.

§ 1235.46 What electronic media may be used for transferring records to the National Archives of the United States?

(a) *General.* This section specifies the media or method used to transfer permanent records to the National Archives of the United States. (See 36 CFR 1236.28 for the requirements governing the selection of electronic records storage media for current agency use.) The agency must use only media that is sound and free from defects for transfers to the National Archives of the United States. When permanent electronic records may be disseminated through multiple electronic media (e.g., magnetic tape, CD–ROM) or mechanisms (e.g., FTP), the agency and NARA must agree on the most appropriate medium or method for transfer of the records into the National Archives of the United States.

(b) *Magnetic tape.* Agencies may transfer electronic records to the National Archives of the United States on magnetic tape as follows:

(1) Open-reel magnetic tape must be on ½ inch 9-track tape reels recorded at 1600 or 6250 bpi that meet ANSI X3.39–1986, American National Standard: Recorded Magnetic Tape for Information Interchange (1600 CPI, PE) or ANSI X3.54–1986, American National Standard: Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording), respectively.

(2) 18-track 3480-class cartridges must be recorded at 37,871 bpi that meet ANSI X3.180–1990, American National Standard: Magnetic Tape and Cartridge for Information Interchange—18-Track, Parallel, ½ inch (12.65 mm), 37871 cpi (1491 cpmm), Group-Coded—Requirements for Recording. The data must be blocked at no more than 32,760 bytes per block.

(3) DLT tape IV cartridges must be recorded in an uncompressed format. Agencies interested in transferring scheduled electronic records using a Tape Archive (TAR) utility must contact NARA's Electronic and Special Media Records Services Division (NWME) to initiate transfer discussions. The data must be blocked at no more than 32,760 bytes per block and must conform to the standards cited in the table as follows:

(c) *Compact-Disk, Read Only Memory (CD–ROM) and Digital Video Disks (DVDs).* Agencies may use CD–ROMs and DVDs to transfer permanent electronic records to the National Archives of the United States.

(1) CD–ROMs used for this purpose must conform to ANSI/NISO/ISO 9660–1990, American National Standard for Volume and File Structure of CD–ROM for Information Exchange.

(2) Permanent electronic records must be stored in discrete files. Transferred CD–ROMs may contain other files, such as software or temporary records, but all permanent records must be in files that contain only permanent records. Agencies must indicate at the time of transfer if a CD–ROM contains temporary records and where those records are located on the CD–ROM. The agency must also specify whether NARA should return the CD–ROM to the agency or dispose of it after copying the permanent records to an archival medium.

(3) If permanent electronic records are stored on both CD–ROM and other media, such as magnetic tape, the agency and NARA must agree on the medium that will be used to transfer the records into the National Archives of the United States.

(d) *File Transfer Protocol.* Agencies may use File Transfer Protocol (FTP) to transfer permanent electronic records to the National Archives of the United States only with NARA's approval. Several important factors may limit the use of FTP as a transfer method, including the number of records, record file size, and available bandwidth. Agencies must contact NARA (NWME) to initiate the transfer discussions. Each transfer of electronic records via FTP must be preceded with a signed SF 258 sent to NWME.

(1) FTP file structure may use the 64-character Joliet extension naming convention only when letters, numbers, dashes (-), and underscores (_) are used in the file and/or directory names, with a slash (/) used to indicate directory structures. Otherwise, FTP file structure must conform to an 8.3 file naming convention and file directory structure as cited in ANSI/NISO/ISO 9660–1990, American National Standard for Volume and File Structure of CD–ROM for Information Exchange.

(2) Permanent electronic records must be transferred in discrete files, separate from temporary files. All permanent records must be transferred in files that contain only permanent records.

§ 1235.48 What documentation must agencies transfer with electronic records?

(a) *General.* Agencies must transfer documentation adequate to identify, service, and interpret the permanent electronic records. This documentation must include completed NARA Form 14097, Technical Description for Transfer of Electronic Records, and a completed NARA Form 14028, Information System Description Form, or their equivalents. Agencies must submit the required documentation in an electronic form that conforms to the provisions of this section.

(b) *Data files.* Documentation for data files and data bases must include record layouts, data element definitions, and code translation tables (codebooks) for coded data. Data element definitions, codes used to represent data values, and interpretations of these codes must match the actual format and codes as transferred.

(c) *Digital spatial data files.* Digital spatial data files must include the documentation specified in paragraph (b) of this section. In addition, documentation for digital spatial data files can include metadata that conforms to the Federal Geographic Data Committee's Content Standards for Digital Geospatial Metadata, as specified in Executive Order 12906 of April 11, 1994 (3 CFR, 1995 Comp., p. 882).

(d) *Documents containing SGML tags.* Documentation for electronic files containing textual documents with SGML tags must include a table for interpreting the SGML tags, when appropriate.

(e) *Electronic records in other formats.*

(1) This paragraph applies to the documentation for the following types of electronic records:

(i) E-mail messages with attachments;

(ii) Scanned images of textual records;

(iii) Records in portable document (PDF) format;

(iv) Digital photographic records; and

(v) Web content records.

(2) Documentation for electronic records in these formats must follow the transfer requirements available on the NARA Electronic Records Management Initiative Web page at *http://www.archives.gov/records-mgmt/initiatives/erm-products.html* or from NARA (NWCS for digital photographs and metadata, NWME for other electronic records).

§ 1235.50 What specifications and standards for transfer apply to electronic records?

(a) *General.*

(1) Agencies must transfer electronic records in a format that is independent of specific hardware or software. Except as specified in paragraphs (c) through (e) of this section, the records must be written in ASCII or EBCDIC with all control characters and other non-data characters removed. Agencies must consult with NARA (NWME) about electronic records in other formats.

(2) Agencies must have advance approval from NARA for compression of the records, and agencies must comply with a request from NARA to provide the software to decompress the records. The records must not be in an aggregated format (e.g., TAR files).

(b) *Data files and databases.* Data files and databases must be transferred to the National Archives of the United States as flat files or as rectangular tables; i.e., as two-dimensional arrays, lists, or tables. All ''records'' (within the context of the computer program, as opposed to a Federal record) or ''tuples,'' i.e., ordered collections of data items, within a file or table must have the same logical format. Each data element within a record must contain only one data value. A record must not contain nested repeating groups of data items. The file must not contain extraneous control characters, except record length indicators for variable length records, or marks delimiting a data element, field, record, or file. If records or data elements in different files need to be linked or combined, then each record must contain one or more data elements that constitute primary and/or foreign keys enabling valid linkages between the related records in separate files.

(c) *Digital geospatial data files.* Digital spatial data files must be transferred to the National Archives of the United States in a format that complies with a non-proprietary, published open standard maintained by or for a Federal, national, or international standards organization. Acceptable transfer formats include:

(1) The Spatial Data Transfer Standard (SDTS) as defined in the Federal Information Processing Standard 173–1 (June 10, 1994) that is incorporated by reference. Digital geospatial data files created on systems procured prior to February 1994 which do not have a SDTS capability are exempt from this requirement. Agencies must consult with NARA regarding transfer of noncompliant digital geospatial data files created after February 1, 1994.

(2) The Geography Markup Language (GML) as defined by the Open GIS Consortium.

(d) *Textual documents.* Electronic textual documents must be transferred as plain ASCII files; however, such files may contain Standard Generalized Markup Language (SGML) tags.

(e) *Electronic mail, scanned images of textual records, portable document format records, digital photographic records, and Web content records.* Agencies must follow the transfer requirements available on the NARA Electronic Records Management Initiative Web page at *http://www.archives.gov/records-mgmt/initiatives/erm-products.html* or from NARA (NWCS for digital photographs and NWME for other electronic records).

PART 1236—ELECTRONIC RECORDS MANAGEMENT

Subpart A—General

Sec.

Subpart B—Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems

Authority: 44 U.S.C. 2904, 3101, 3102, and 3105.

Subpart A—General

§ 1236.1 What are the authorities for Part 1236?

The statutory authority for this part is 44 U.S.C. 2904, 3101, 3102, and 3105. OMB Circular A–130, Management of Federal Information Resources, applies to records and information systems containing records.

§ 1236.2 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout subchapter B, including part 1236.

(b) As used in part 1236—

Electronic information system means an information system that contains and provides access to computerized Federal records and other information.

Electronic mail system means a computer application used to create, receive, and transmit messages and other documents. Excluded from this definition are file transfer utilities (software that transmits files between users but does not retain any transmission data), data systems used to collect and process data that have been organized into data files or data bases on either personal computers or mainframe computers, and word processing documents not transmitted on an e-mail system.

Electronic record includes both record content and associated metadata that the agency determines is required to meet agency business needs.

Metadata consists of contextual information preserved describing the history, tracking, and/or management of an electronic document.

Unstructured electronic records means records created using office automation applications such as electronic mail and other messaging applications, word processing, or presentation software.

§ 1236.4 What standards are used as guidelines for this part?

These regulations are in conformance with ISO 15489–1:2001.

§ 1236.6 What are agency responsibilities for electronic records management?

Agencies must:

(a) Incorporate management of electronic records into the records management activities required by parts 1220–1235;

(b) Integrate records management and preservation considerations into the design, development, enhancement, and implementation of electronic information systems in accordance with subpart B of this part; and

(c) Appropriately manage electronic records in accordance with subpart C of this part.

Subpart B—Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems

§ 1236.10 What records management controls must agencies establish for records in electronic information systems?

The following types of records management controls are needed to ensure that Federal records in electronic information systems can provide adequate and proper documentation of agency business for as long as the information is needed. Agencies must incorporate controls into the electronic information system or integrate them into a recordkeeping system that is external to the information system itself (see § 1236.20).

(a) Reliability: Controls to ensure a full and accurate representation of the transactions, activities or facts to which they attest and can be depended upon in the course of subsequent transactions or activities;

(b) Authenticity: Controls to protect against unauthorized addition, deletion, alteration, use and concealment;

(c) Integrity: Controls, such as audit trails, to ensure records are complete and unaltered;

(d) Usability: Mechanisms to ensure records can be located, retrieved, presented and interpreted.

(e) Content: Mechanisms to preserve the information contained within the record itself that was produced by the creator of the record;

(f) Context: Mechanisms to implement cross-references to related records that show the organizational, functional and operational circumstances about the record, which will vary depending upon the business, legal and regulatory requirements of the business activity; and

(g) Structure: Controls to ensure the maintenance of the physical and logical format of the records and the relationships between the data elements.

§ 1236.12 What other records management and preservation considerations must be incorporated into the design, development, and implementation of electronic information systems?

As part of the agency's capital planning and systems development life cycle processes, ensure:

(a) Records management controls (see § 1236.10) are planned and implemented in the system.

(b) All records in the system will be retrievable and usable for as long as needed to conduct agency business (i.e., for their NARA-approved retention period). Where the records will need to be retained beyond the planned life of the system, agencies must plan and budget for the migration of records and their associated metadata to new storage media or formats in order to avoid loss due to media decay or technology obsolescence. (See § 1236.14.)

(c) The transfer of permanent records to NARA in accordance with part 1235 of this subchapter.

(d) Provision of a standard interchange format (e.g., ASCII or XML) when needed to permit the exchange of electronic documents between offices using different software or operating systems.

§ 1236.14 What must agencies do to protect records against technological obsolescence?

Agencies must design and implement migration strategies to counteract hardware and software dependencies of electronic records whenever the records must be maintained and used beyond the life of the information system in which the records are originally created or captured. To successfully protect records against technological obsolescence, agencies must:

(a) Determine if the NARA-approved retention period for the records will be longer than the life of the system where they are currently stored. If so, plan for the migration of the records to a new system before the current system is retired.

(b) Carry out upgrades of hardware and software in such a way as to retain the functionality and integrity of the electronic records created in them. Retention of record functionality and integrity requires:

(1) Retaining the records in a usable format until their authorized disposition date. Where migration includes

conversion of records, ensure that the authorized disposition of the records can be implemented after conversion;

(2) Any necessary conversion of storage media to provide compatibility with current hardware and software; and

(3) Maintaining a link between records and their metadata through conversion or migration, including capture of all relevant associated metadata at the point of migration (for both the records and the migration process).

Subpart C—Additional Requirements for Electronic Records

§ 1236.20 What are appropriate recordkeeping systems for electronic records?

(a) *General.* Agencies must use electronic or paper recordkeeping systems or a combination of those systems, depending on their business needs, for managing their records. Transitory e-mail may be managed as specified in § 1236.22(c).

(b) *Electronic recordkeeping.* Recordkeeping functionality may be built into the electronic information system or records can be transferred to an electronic recordkeeping repository, such as a DoD–5015.2 STD-certified product. The following functionalities are necessary for electronic recordkeeping:

(1) *Declare records.* Assign unique identifiers to records.

(2) *Capture records.* Import records from other sources, manually enter records into the system, or link records to other systems.

(3) *Organize records.* Associate with an approved records schedule and disposition instruction.

(4) *Maintain records security.* Prevent the unauthorized access, modification, or deletion of declared records, and ensure that appropriate audit trails are in place to track use of the records.

(5) *Manage access and retrieval.* Establish the appropriate rights for users to access the records and facilitate the search and retrieval of records.

(6) *Preserve records.* Ensure that all records in the system are retrievable and usable for as long as needed to conduct agency business and to meet NARA-approved dispositions. Agencies must develop procedures to enable the migration of records and their associated metadata to new storage media or formats in order to avoid loss due to media decay or technology obsolescence.

(7) *Execute disposition.* Identify and effect the transfer of permanent records to NARA based on approved records schedules. Identify and delete temporary records that are eligible for disposal. Apply records hold or freeze on disposition when required.

(c) *Backup systems.* System and file backup processes and media do not provide the appropriate recordkeeping functionalities and must not be used as the agency electronic recordkeeping system.

§ 1236.22 What are the additional requirements for managing electronic mail records?

(a) Agencies must issue instructions to staff on the following retention and management requirements for electronic mail records:

(1) The names of sender and all addressee(s) and date the message was sent must be preserved for each electronic mail record in order for the context of the message to be understood. The agency may determine that other metadata is needed to meet agency business needs, e.g., receipt information.

(2) Attachments to electronic mail messages that are an integral part of the record must be preserved as part of the electronic mail record or linked to the electronic mail record with other related records.

(3) If the electronic mail system identifies users by codes or nicknames or identifies addressees only by the name of a distribution list, retain the intelligent or full names on directories or distribution lists to ensure identification of the sender and addressee(s) of messages that are records.

(4) Some e-mail systems provide calendars and task lists for users. These may meet the definition of Federal record. Calendars that meet the definition of Federal records are to be managed in accordance with the provisions of General Records Schedule 23, Item 5.

(5) Draft documents that are circulated on electronic mail systems may be records if they meet the criteria specified in 36 CFR 1222.10(b).

(b) Agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that Federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system.

(c) Agencies may elect to manage electronic mail records with very short-term NARA-approved retention periods (transitory records with a very short-term retention period of 180 days or less as provided by GRS 23, Item 7, or by a NARA-approved agency records schedule) on the electronic mail system itself, without the need to copy the record to a paper or electronic recordkeeping system, provided that:

(1) Users do not delete the messages before the expiration of the NARA-approved retention period, and

(2) The system's automatic deletion rules ensure preservation of the records until the expiration of the NARA-approved retention period.

(d) Except for those electronic mail records within the scope of paragraph (c) of this section:

(1) Agencies must not use an electronic mail system to store the recordkeeping copy of electronic mail messages identified as Federal records unless that system has all of the features specified in § 1236.20(b).

(2) If the electronic mail system is not designed to be a recordkeeping system, agencies must instruct staff on how to copy Federal records from the electronic mail system to a recordkeeping system.

(e) Agencies that retain permanent electronic mail records scheduled for transfer to the National Archives must either store them in a format and on a medium that conforms to the requirements concerning transfer at 36 CFR part 1235 or maintain the ability to convert the records to the required format and medium at the time transfer is scheduled.

(f) Agencies that maintain paper recordkeeping systems must print and file their electronic mail records with the related transmission and receipt data specified by the agency's electronic mail instructions.

§ 1236.24 What are the additional requirements for managing unstructured electronic records?

(a) Agencies that manage unstructured electronic records electronically must ensure that the records are filed in a recordkeeping system that meets the requirements in § 1236.10(b).

(b) Agencies that maintain paper files as their recordkeeping systems must establish policies and issue instructions to staff to ensure that unstructured records are printed out for filing in a way that captures any pertinent hidden text (such as comment fields) or structural relationships (e.g., among worksheets in spreadsheets or other complex documents) required to meet agency business needs.

§ 1236.26 What actions must agencies take to maintain electronic information systems?

(a) Agencies must maintain inventories of electronic information systems and review the systems periodically for conformance to established agency procedures,

standards, and policies as part of the periodic reviews required by 44 U.S.C. 3506. The review should determine if the records have been properly identified and described, and if the schedule descriptions and retention periods reflect the current informational content and use. If not, agencies must submit an SF 115, Request for Records Disposition Authority, to NARA.

(b) Agencies must maintain up-to-date documentation about electronic information systems that is adequate to:

(1) Specify all technical characteristics necessary for reading and processing the records contained in the system;

(2) Identify all inputs and outputs;

(3) Define the contents of the files and records;

(4) Determine restrictions on access and use;

(5) Understand the purpose(s) and function(s) of the system;

(6) Describe update cycles or conditions and rules for adding, changing, or deleting information in the system; and

(7) Ensure the timely, authorized disposition of the records.

§ 1236.28 What additional requirements apply to the selection and maintenance of electronic records storage media for permanent records?

(a) Agencies must maintain the storage and test areas for electronic records storage media containing permanent and unscheduled records within the following temperature and relative humidity ranges:

Temperature—62 ° to 68 °F.

Relative humidity—35% to 45%

(b) Electronic media storage libraries and test or evaluation areas that contain permanent or unscheduled records must be smoke-free.

(c) For the maintenance and storage of CDs and DVDS, see National Institute of Standards and Technology (NIST) Special Publication 500–252, Care and Handling of CDs and DVDs at *http://www.itl.nist.gov/iad/894.05/papers/CDandDVDCareandHandlingGuide.pdf.*

(d) Agencies must test magnetic computer tape media no more than 6 months prior to using them to store electronic records that are unscheduled or scheduled for permanent retention. This test should verify that the magnetic computer tape media are free of permanent errors and in compliance with NIST or industry standards.

(e) Agencies must annually read a statistical sample of all magnetic computer tape media containing permanent and unscheduled records to identify any loss of data and to discover and correct the causes of data loss. In magnetic computer tape libraries with 1800 or fewer tape media, a 20% sample or a sample size of 50 media, whichever is larger, should be read. In magnetic computer tape libraries with more than 1800 media, a sample of 384 media should be read. Magnetic computer tape media with 10 or more errors should be replaced and, when possible, lost data must be restored. All other magnetic computer tape media which might have been affected by the same cause (i.e., poor quality tape, high usage, poor environment, improper handling) must be read and corrected as appropriate.

(f) Agencies must copy permanent or unscheduled data on electronic records storage media before the media are 10 years old onto tested and verified new electronic media.

PART 1237—AUDIOVISUAL, CARTOGRAPHIC, AND RELATED RECORDS MANAGEMENT

Sec.

Authority: 44 U.S.C. 2904 and 3101.

§ 1237.1 What is the applicability and scope of this part?

Agencies must manage audiovisual, cartographic, and related records in accordance with parts 1220–1235. This part prescribes additional policies and procedures for managing audiovisual, cartographic, and related records to ensure adequate and proper documentation and authorized, timely, and appropriate disposition.

§ 1237.2 What are the authorities for this part?

The authorities for this part are 44 U.S.C. 2904 and 3101.

§ 1237.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout subchapter B, including part 1237.

(b) As used in part 1237—

Aerial photographic records means film-based images of the surface of the earth, of other planetary bodies, or of the atmosphere that have been taken from airborne vehicles or satellites. They include vertical and oblique aerial negative film taken from conventional aircraft as well as copy negatives, internegatives, rectified negatives, and annotated and other prints from these negatives. Also included are infrared, ultraviolet, multispectral, video, and radar imagery that has been converted to a film base. These records also include the relevant index system in whatever form it may exist such as mosaics, flight-line overlays or annotated maps, or electronic data bases capturing the latitude and longitude (or other coordinate-based location data) of individual aerial photographic center points.

Architectural and engineering records means graphic records that depict the proposed and actual construction of stationary structures, such as buildings, bridges, and canals as well as movable objects, such as ships, aircraft, vehicles, weapons, machinery, and equipment. These records are also known as design and construction drawings and include closely related indexes and written specifications.

Audiovisual means any pictorial or aural means of communicating information, e.g., photographic prints, negatives, slides, digital images, sound recordings, and moving images.

Audiovisual equipment means equipment used for recording, producing, duplicating, processing, broadcasting, distributing, storing, or exhibiting audiovisual materials or for providing any audiovisual services.

Audiovisual production means an organized and unified presentation, developed according to a plan or script, containing visual imagery, sound, or both, and used to convey information. An audiovisual production generally is a self-contained presentation.

Audiovisual records means records in pictorial or aural form, including still photographs and motion media (i.e.

moving images whether on motion picture film or as video recordings), sound recordings, graphic works (e.g., printed posters), mixed media, and related finding aids and production files.

Cartographic records means graphic representations drawn to scale of selected cultural and physical features of the surface of the earth, of other planetary bodies, and of the atmosphere. They include maps, charts, photomaps, orthophotomaps, atlases, cartograms, globes, and relief models. Related records are those that are integral to the map-making process, such as field survey notes, geodetic controls, map history case files, source material, indexes, and finding aids.

§ 1237.4 What standards are incorporated by reference for this part?

(a) The following publications cited in this section are hereby incorporated by reference into this part 1237. They are available from the issuing organizations at the addresses listed in this section. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

(b) The following International (ISO) and American National Standards Institute (ANSI) standards are available from ANSI, 25 West 43rd Street, Fourth Floor, New York, NY 10036 or online at *http://www.ansi.org:*

ISO 2859–1: 1996, Sampling Procedures for Inspection by Attributes—Part 1: Sampling Plans Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection

ISO 18901: 2002, Imaging Materials—Processed Silver-Gelatin Type Black-and-White Films—Specifications for Stability

ISO 18902: 2001, Imaging Materials—Processed Photographic Films, Plates, and Papers—Filing Enclosures and Storage Containers

ISO 18906: 2000, Imaging Materials—Photographic Films—Specifications for Safety Film

ISO 18911: 2000, Imaging Materials—Processed Safety Photographic Films—Storage Practices

ISO 18918: 2000, Imaging Materials—Processed Photographic Plates—Storage Practices

ISO 18920: 2000, Imaging Materials—Processed Photographic Reflection Prints—Storage Practices

ISO 18923: 2000, Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices

ISO 18925: 2002, Imaging Materials—Optical Disc Media—Storage Practices

ANSI/NAPM IT9.11–1993, Imaging Media—Processed Safety Photographic Films—Storage

ANSI/AIIM TR34:1996, Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems

(c) The following NFPA standard is available from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy, MA 02269–9101, or on-line at *http://catalog.nfpa.org:*

NFPA 40–2007, Standard for the Storage and Handling of Cellulose Nitrate Film

§ 1237.10 How must agencies manage their audiovisual, cartographic and related records?

Each Federal agency must manage its audiovisual, cartographic and related records as required in Parts 1220 and 1224. In addition, agencies must:

(a) Prescribe the types of audiovisual, cartographic and related records to be created and maintained. (See § 1235.42 for requirements for permanent audiovisual records.)

(b) Create and maintain current inventories showing the location of all generations of audiovisual records and all cartographic, and related records, especially those not maintained centrally by the agency.

§ 1237.12 What record elements must be created and preserved for permanent audiovisual records?

For permanent audiovisual records, the following record elements must be created or acquired and preserved for transfer into the National Archives of the United States. (See § 1235.52 for transfer requirements for permanent audiovisual records.)

(a) *Motion pictures.*

(1) Agency-sponsored or produced motion picture films (e.g., public information films) whether for public or internal use:

(i) Original negative or color original plus separate optical sound track;

(ii) Intermediate master positive or duplicate negative plus optical track sound track; and,

(iii) Sound projection print and video recording, if both exist.

(2) Agency-acquired motion picture films: Two projection prints in good condition or one projection print and one videotape.

(3) Unedited footage, outtakes and trims (the discards of film productions) that are properly arranged, labeled, and described and show unstaged, unrehearsed events of historical interest or historically significant phenomena:

(i) Original negative or color original; and

(ii) Matching print or videotape.

(b) *Video recordings.*

(1) For analog videotapes, the original or earliest generation videotape using industrial-quality or professional videotapes for originals and a copy for reference.

(2) For video discs, the premaster video used to manufacture the video disc and two copies of the disc.

(c) *Still pictures.*

(1) For analog black-and-white photographs, an original negative and a captioned print or the captioning information maintained in another file such as a database if the file number correlation is clear. If the original negative is nitrate, unstable acetate, or glass based, a duplicate negative on a polyester base is needed.

(2) For analog color photographs, the original color negative, color transparency, or color slide; a captioned print of the original color negative and/or captioning information in another file such as a database with a clear correlation to the relevant image; and a duplicate negative, or slide, or transparency.

(3) For slide sets, the original and a reference set, and the related audio recording and script.

(4) For other pictorial records such as posters, original art work, and filmstrips, the original and a reference copy.

(d) *Digital photographic records.* See § 1237.28 for requirements for digital photographs.

(e) *Sound recordings.*

(1) Disc recordings:

(i) For compact discs, the origination recording regardless of form and two compact discs.

(ii) For analog disc recordings, the master tape and two disc pressings of each recording, typically a vinyl copy for playback at 33⅓ revolutions per minute (rpm).

(2) For analog audio recordings on magnetic tape (open reel, cassette, or cartridge), the original tape, or the earliest available generation of the recording, and a subsequent generation copy for reference.

(f) *Finding aids and production documentation.*

(1) Existing finding aids such as data sheets, shot lists, continuities, review

sheets, catalogs, indexes, list of captions, and other documentation that identifies the records.

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and appropriate documentation bearing on the origin, acquisition, release, and ownership of the production.

§ 1237.14 What are the additional scheduling requirements for audiovisual, cartographic, and related records?

The disposition instructions must also provide that permanent records be transferred to National Archives of the United States within 5–10 years after creation (see also 36 CFR part 1235) See § 1235.42 for specifications and standards for transfer to National Archives of the United States of audiovisual, cartographic, and related records.

§ 1237.16 How do agencies store audiovisual records?

Agencies must maintain appropriate storage conditions for permanent, long-term temporary, or unscheduled audiovisual records:

(a) Ensure that audiovisual records storage facilities comply with 36 CFR part 1234.

(b) For the storage of permanent, long-term temporary, or unscheduled records, use audiovisual storage containers or enclosures made of non-corroding metal, inert plastics, paper products and other safe materials recommended in ISO 18902: 2001, Imaging Materials—Processed Photographic Films, Plates, and Papers—Filing Enclosures and Storage Containers; and ISO 18911: 2000, Imaging Materials—Processed Safety Photographic Films—Storage Practices;

(c) Store originals and use copies (e.g., negatives and prints) separately, whenever practicable. Store distinct audiovisual record series separately from textual series (e.g., poster series separately from other kinds of agency publications, or photographic series separately from general reference files). Retain intellectual control through finding aids, annotations, or other descriptive mechanisms;

(d) Store series of permanent and unscheduled x-ray films, i.e., x-rays that are not interspersed among paper records (case files), in accordance with § 1238.20. Store series of temporary x-ray films under conditions that will ensure their preservation for their full retention period, in accordance with ANSI/NAPM IT9.11–1993, Imaging Media—Processed Safety Photographic Films—Storage;

(e) Store posters and similar graphic works in oversize formats, in map cases, hanging files, or other enclosures that are sufficiently large or flexible to accommodate the records without rolling, folding, bending, or other ways that compromise image integrity and stability; and

(f) Store optical disks in individual containers and use felt-tip, water-based markers for disk labeling.

§ 1237.18 What are the environmental standards for audiovisual records storage?

(a) *Photographic film and prints.* The requirements in this paragraph apply to permanent, long-term temporary, and unscheduled audiovisual records.

(1) *General guidance.* Keep all film in cold storage following guidance by the International Organization for Standardization (ISO) 18911: 2000, Imaging Materials—Processed Safety Photographic Films—Storage Practices. See also ISO 18920: 2000, Imaging Materials—Processed Photographic Reflection Prints—Storage Practices; and ISO 18918: 2000, Imaging Materials—Processed Photographic Plates—Storage Practices.

(2) *Color images and acetate-based media.* Keep in an area maintained below 40 degrees Fahrenheit with 20–40% relative humidity to retard the fading of color images and the deterioration of acetate-based media.

(b) *Digital images on magnetic tape.* For digital images stored on magnetic tape, keep in an area maintained at a constant temperature range of 62 degrees Fahrenheit to 68 degrees Fahrenheit, with constant relative humidity from 35% to 45%. See also the recommendations in ISO 18923: 2000, Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices; and the coverage of electronic records storage in 36 CFR 1236.28.

(c) *Digital images on optical media.* For permanent, long-term temporary, or unscheduled digital images maintained on optical media (e.g., CDs, DVDs), use the recommended storage temperature and humidity levels stated in ISO 18925: 2002, Imaging Materials—Optical Disc Media—Storage Practices.

§ 1237.20 What are special considerations in the maintenance of audiovisual records?

Agencies must:

(a) Handle audiovisual records in accordance with commonly accepted industry practices.

(b) Protect audiovisual records, including those recorded on digital media or magnetic sound or video media, from accidental or deliberate alteration or erasure.

(c) If different versions of audiovisual productions (e.g., short and long versions or foreign-language versions) are prepared, keep an unaltered copy of each version for record purposes.

(d) Link audiovisual records with their finding aids, including captions and published and unpublished catalogs, inventories, indexes, and production files and similar documentation created in the course of audiovisual production. Establish and communicate agency-wide, clear captioning standards, procedures, and responsibilities.

(e) Maintain current and accessible documentation identifying creators of audiovisual products, their precise relationship to the agency, and the nature and status of copyright or other rights affecting the present and future use of items acquired from sources outside the agency. (See § 1222.30 for requirements to ensure agency ownership of appropriate contractor produced records.)

(f) Create unique identifiers for all audiovisual records (e.g., for digital files, use file naming conventions), that clarify connections between related elements (e.g., photographic prints and negatives, or original edited masters and dubbing for video and audio recordings), and that associate records with the relevant creating, sponsoring, or requesting offices.

(g) Maintain temporary and permanent audiovisual records separately.

(h) Require that personnel wear white lint-free cotton (or other approved) gloves when handling film.

§ 1237.22 What are special considerations in the storage and maintenance of cartographic and related records?

Agencies must:

(a) Maintain permanent and unscheduled cartographic, architectural, and engineering records in an environment that does not exceed 70 degrees Fahrenheit and with relative humidity under 50%.

(b) Create an identification scheme for each series and assign unique identification designations to each item within a series.

(c) Maintain lists or indexes for each series with cross-references to related textual records.

(d) Avoid interfiling separate series of maps, charts, or drawings, and file permanent cartographic and architectural records separately from temporary series unless hand-corrected versions have been systematically filed with other published maps in a central or master file.

(e) Avoid rolling and folding maps and drawings. Store permanent maps and drawings flat in shallow drawer map cases in acid-free folders.

(f) Do not laminate original oversize records. Consult NARA (NWT) for preservation, storage, and treatment options.

§ 1237.24 What are special considerations for storage and maintenance of aerial photographic records?

(a) Mark each aerial film container with a unique identification code to facilitate identification and filing.

(b) Mark aerial film indexes with the unique aerial film identification codes or container codes for the aerial film that they index. Also, file and mark the aerial indexes in such a way that they can easily be retrieved by area covered.

§ 1237.26 What materials and processes must agencies use to create audiovisual records?

Agencies must:

(a) For picture negatives and motion picture preprints (negatives, masters, and all other copies) of permanent, long-term temporary, or unscheduled records, use polyester base media and process in accordance with industry standards as specified in ISO 18906: 2000—Imaging Materials—Photographic Films—Specifications for Safety Film, and ISO 18901: 2002—Imaging Materials—Processed Silver-Gelatin Type Black-and-White Films—Specifications for Stability.

(1) Ensure that residual sodium thiosulfate (hypo) on newly processed black-and-white photographic film does not exceed 0.014 grams per square meter.

(2) Require laboratories to process film in accordance with this standard. Process color film in accordance with the manufacturer's recommendations.

(3) If using reversal type processing, require full photographic reversal; i.e., develop, bleach, expose, develop, fix, and wash.

(b) Avoid using motion pictures in a final ''A & B'' format (two precisely matched reels designed to be printed together) for the reproduction of excerpts or stock footage.

(c) Use only industrial or professional video and audio recording equipment, new and previously unrecorded magnetic tape stock and blank optical media (e.g., DVD and CD), for original copies of permanent, long-term temporary, or unscheduled recordings. Limit the use of consumer formats to distribution or reference copies or to subjects scheduled for destruction. Avoid using videocassettes in the VHS format for use as originals of permanent or unscheduled records.

(d) Record permanent, long-term temporary, or unscheduled audio recordings on optical media from major manufacturers. Avoid using cassettes, as originals for permanent records or unscheduled records (although they may be used as reference copies).

(e) For born-digital or scanned digital images that are scheduled as permanent or unscheduled, a record (or master) version of each image must be comparable in quality to a 35 mm film photograph or better, and must be saved in Tagged Image File Format (TIFF) or JPEG File Interchange Format (JFIF, JPEG). For more detailed requirements on image format and resolution, see § 1235.48(e) of this chapter. For temporary digital photographs, agencies select formats that they deem most suitable for fulfillment of business needs.

§ 1237.28 What special concerns apply to digital photographs?

Digital photographs, either originating in digital form (''born-digital'') or scanned from photographic prints, slides, and negatives, are subject to the provisions of this part and the requirements of 36 CFR part 1236, and NARA guidance for digital photographs located on the following NARA Web page—*http://www.archives.gov/records-mgmt/initiatives/digital-photo-records.html.* In managing digital photographs, agency and contractor personnel must:

(a) Schedule digital photographs and related databases as soon as possible for the minimum time needed for agency business and transfer the records promptly according to the records schedule.

(b) Select image management software and hardware tools that will meet long-term archival requirements, including transfer to the National Archives of the United States, as well as business needs. Additional information and assistance is available from NARA (NWM).

(c) When developing digital image storage strategies, build redundancy into storage systems, backing up image files through on-line approaches, off-line, or combinations thereof. (See also electronic storage requirements in § 1236.28 of this chapter).

(d) For scanned digital images of photographic prints, slides, and negatives that are scheduled as permanent or unscheduled, document the quality control inspection process employed during scanning.

(1) Visually inspect a sample of the images for defects, evaluate the accuracy of finding aids, and verify file header information and file name integrity.

(2) Conduct the sample using a volume sufficiently large to yield statistically valid results, in accordance with one of the quality sampling methods presented in American National Standards Institute (ANSI)/Association of Information and Image Management (AIIM) TR34:1996—Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems. (See also ISO 2859–1: 1996—Sampling Procedures for Inspection by Attributes—Part 1: Sampling Plans Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection.)

(e) For born-digital images scheduled as permanent, long-term temporary, or unscheduled, perform periodic inspections, using sampling methods or more comprehensive verification systems (e.g., checksum programs), to evaluate image file stability, documentation quality, and finding aid reliability. Agencies must also establish procedures for refreshing digital data (recopying) and file migration, especially for images and databases retained for five years or more.

(f) Designate a record set of images that is maintained separately from other versions. Record sets of permanent or unscheduled images that have already been compressed once (e.g., compressed TIFF or first-generation JPEG) must not be subjected to further changes in image size.

(g) Organize record images in logical series. Group permanent digital images separately from temporary digital images.

(h) Document information about digital photographic images as they are produced. For permanent or unscheduled images descriptive elements must include:

(1) An identification number;

(2) Information about image content;

(3) Identity and organizational affiliation of the photographer;

(4) Existence of any copyright or other potential restrictions on image use; and

(5) Technical data including file format and version, bit depth, image size, camera make and model, compression method and level, custom or generic color profiles (ICC/ICM profile), and, where applicable, Exchangeable Image File Format (EXIF) information embedded in the header of image files by certain digital cameras.

(i) Provide a unique file name to identify for digital image.

(j) Develop finding aids sufficiently detailed to ensure efficient and accurate retrieval. Ensure that indexes, caption lists, and assignment logs can be used to identify and chronologically cut-off block of images for transfer to the NARA.

§ 1237.30 How do agencies manage records on nitrocellulose-base and cellulose-acetate base film?

(a) The nitrocellulose base, a substance akin to gun cotton, is chemically unstable and highly flammable. Agencies must handle nitrocellulose-base film (used in the manufacture of sheet film, 35 mm motion pictures, aerial and still photography into the 1950s) as specified below:

(1) Remove nitrocellulose film materials (e.g. 35 mm motion picture film and large series of still pictures) from records storage areas.

(2) Notify NARA (NWM) about the existence of nitrocellulose film materials for a determination of whether they may be destroyed or retained after a copy is made by the agency for transfer to NARA. If NARA appraises nitrate film materials as disposable and the agency wishes to retain them, the agency must follow the guidance in NFPA 40–2007, Standard for the Storage and Handling of Cellulose Nitrate Film.

(3) Follow the packing and shipping of nitrate film as specified in Department of Transportation regulations (49 CFR 172.101, Hazardous materials table; 172.504, Transportation; 173.24, Standard requirements for all packages; and 173.177, Motion picture film and X-ray film—nitrocellulose base).

(b) Agencies must inspect cellulose-acetate film periodically for an acetic odor, wrinkling, or the presence of crystalline deposits on the edge or surface of the film that indicate deterioration. Agencies must notify NARA (NWM) immediately after inspection about deteriorating permanent or unscheduled audiovisual records composed of cellulose acetate so that they can be copied by the agency prior to transfer of the original and duplicate film to NARA.

PART 1238—MICROFORMS RECORDS MANAGEMENT

Subpart A—General

Subpart B—Standards for Microfilming Records

Subpart C—Storage, Use, and Disposition Standards for Microform Records

Authority: 44 U.S.C. chapters 29 and 33.

Subpart A—General

§ 1238.1 What is the scope of this part?

This part covers the standards and procedures for using micrographic technology in the management of Federal records.

§ 1238.2 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. chapters 29 and 33.

§ 1238. 3 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1238.

§ 1238. 4 What standards are used for guidance for this part?

These regulations conform to guidance provided in ISO15489–1:2001, part 7.1 (Principles of records management programmes), and 9.6 (storage and handling).

§ 1238.5 What publications are incorporated by reference?

(a) The following publications cited in this part are hereby incorporated by reference into this part 1238. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C 552(a) and 1 CFR Part 51. These materials are incorporated as they exist on the date of approval, and a notice of change in these materials will be published in the **Federal Register**.

(b) The publications incorporated by reference listed in this section are available from the issuing organization. They may also be examined at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408.

(c) *American National Standards Institute (ANSI) and International Organization for Standards (ISO) standards.* ANSI and ISO standards cited in this part are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036. The standards can be ordered online at *http://webstore.ansi.org/ansidocstore/default.asp.*

ANSI/ISO 5.2–1991, ANSI/NAPM IT2.19–1994, February 20, 1995, American National Standard for Photography-Density Measurements—Part 2: Geometric Conditions for Transmission Density.

ANSI/ISO 5.3–1995, ANSI/NAPM IT2.18–1996, March 8, 1996, American National Standard for Photography-Density Measurements—Part 3: Spectral Conditions.

ISO 18901:2002, Imaging materials—Processed silver-gelatin type black-and-white films—Specifications for stability.

ISO 18902:2001, Imaging materials—Processed photographic films, plates, and paper—Filing enclosures and storage containers.

ISO 18911: 2000(E), First edition, November 1, 2000, Imaging materials—Processed safety photographic films—Storage practices.

(d) *Enterprise Content Management Association (AIIM) Standards.* You may obtain the following standards from the Enterprise Content Management Association, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910. The standards can be ordered online at *http://www.aiim.org/.*

ANSI/AIIM MS1–1996, August 8, 1996, Standard Recommended Practice for Alphanumeric Computer-Output Microforms-Operational Practices for Inspection and Quality Control.

ANSI/AIIM MS5–1992, December 21, 1992, Standard for Information and Image Management-Microfiche.

ANSI/AIIM MS14–1996, August 8, 1996, Standard Recommended Practice-Specifications for 16mm and 35mm Roll Microfilm.

ANSI/AIIM MS19–1993, August 18, 1993, Standard Recommended Practice-Identification of Microforms.

ANSI/AIIM MS23–1998, June 2, 1998, Standard Recommended Practice-Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents.

ANSI/AIIM MS32–1996, February 16, 1996, Standard Recommended Practice-Microrecording of Engineering Source Documents on 35mm Microfilm.

ANSI/AIIM MS41–1996, July 16, 1996, Dimensions of Unitized Microfilm Carriers and Apertures (Aperture, Camera, Copy and Image Cards).

ANSI/AIIM MS43–1998, June 2, 1998, Standard Recommended Practice—Operational Procedures—Inspection and Quality Control of Duplicate Microforms of Documents and From COM.

ANSI/AIIM MS45–1990, January 22, 1990, Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.

ANSI/ISO 3334–1991, ANSI/AIIM MS51–1991, May 10, 1991, Micrographics—ISO Resolution Test Chart No. 2—Description and Use.

Subpart B—Standards for Microfilming Records

§ 1238.10 What are the format standards for microfilming records?

The following formats must be used when microfilming records:

(a) *Roll film.*

(1) *Source documents.* The formats described in ANSI/AIIM MS14–1996 must be used for microfilming source documents on 16mm and 35mm roll film. A reduction ratio no greater than 1:24 is recommended for correspondence or similar typewritten documents. Use ANSI/AIIM MS23–1998 for the appropriate reduction ratio and format for meeting image quality requirements. When microfilming on 35mm film for aperture card applications, the format dimensions in ANSI/AIIM MS32–1996, Table 1 must be used, and the aperture card format ''D Aperture'' shown in ANSI/AIIM MS41–1996, Figure 1, must be used. The components of the aperture card, including the paper and adhesive, must conform to the requirements of ANSI/PIMA IT9.2–1998. The 35mm film used in the aperture card application must conform to film designated as LE 500 in ISO 18901:2001.

(2) *COM.* Microfilm created using computer output microfilm (COM) technology must use the simplex mode described in ANSI/AIIM MS14–1996 at an effective ratio of 1:24 or 1:48 depending upon the application.

(b) *Microfiche.* When creating microfiche, either by microfilming source documents or using COM technology, the formats and reduction ratios prescribed in ANSI/AIIM MS5–1992 (R1998) must be used as specified for the size and quality of the documents being filmed. Use ANSI/AIIM MS23–1998 for determining the appropriate reduction ratio and format for meeting the image quality requirements.

(c) *Index placement.*

(1) *Source documents.* When microfilming source documents, place indexes, registers, or other finding aids, if microfilmed, either in the first frames of the first roll of film or in the last frames of the last roll of film of a series. For microfiche, place the indexes in the last frames of the last microfiche or microfilm jacket of a series.

(2) *COM.* Place indexes on COM following the data on a roll of film, in the last frames of a single microfiche, or in the last frames of the last fiche in a series. Other locations for indexes may be used only if dictated by special system constraints.

§ 1238.12 What documentation is required for microfilmed records?

Agencies must ensure that the microforms capture all information contained on the source documents and that they can be used for the purposes the source documents served. Microform records must be labeled and organized to support easy retrieval and use. Agencies must:

(a) Arrange, describe, and index the filmed records to permit retrieval of any particular document or component of the records.

(b) Title each microform roll or fiche with a titling target or header. For fiche, place the titling information in the first frame if the information will not fit on the header. At a minimum, titling information must include:

(1) The title of the records;

(2) The number or identifier for each unit of microform;

(3) The security classification, if any; and

(4) The name of the agency and sub-organization, the inclusive dates, names, or other data identifying the records to be included on a unit of microform.

(c) Add an identification target showing the date of microfilming. When necessary to give the microform copy legal standing, the target must also identify the person who authorized the microfilming. Use ANSI/AIIM MS19–1993 for standards for identification targets.

§ 1238.14 What are the microfilming requirements for permanent and unscheduled records?

(a) Agencies must apply the standards in this section when microfilming:

(1) Permanent paper records where the original paper record will be destroyed (only after authorization from NARA);

(2) Unscheduled paper records where the original paper record will be destroyed; and (only after authorization from NARA);

(3) Permanent and unscheduled original microform records (no paper originals) produced by automation, such as COM.

(b) Agencies must use polyester-based silver gelatin type film that conforms to ISO 18901:2001 for LE 500 film in all applications.

(c) Agencies must process microforms so that the residual thiosulfate ion concentration will not exceed 0.014 grams per square meter in accordance with ISO 18901:2001 and use the processing procedures in ANSI/AIIM MS1–1996 and ANSI/AIIM MS23–1998.

(d) Agencies must use the following standards for quality:

(1) *Resolution.*

(i) *Source documents.* Agencies must determine minimum resolution on microforms of source documents using the method in the Quality Index Method for determining resolution and anticipated losses when duplicating, as described in ANSI/AIIM MS23–1998 and ANSI/AIIM MS43–1998. Agencies must perform resolution tests using an ISO 3334–1991 Resolution Test Chart or a commercially available certifiable target manufactured to comply with this standard, and read the patterns following the instructions of ISO 3334–1991. Agencies must use the smallest character used to display information to determine the height used in the Quality Index formula. Agencies must use a Quality Index of five at the third generation level.

(ii) *COM.* COM must meet the requirements of ANSI/AIIM MS1–1996.

(2) *Background density of images.* Agencies must use the background ISO standard visual diffuse transmission density on microforms appropriate to the type of documents being filmed. Agencies must use the procedure for density measurement described in ANSI/AIIM MS23–1998. The densitometer must meet with ANSI/NAPM IT2.18–1996, for spectral conditions and ANSI/NAPM IT2.19–1994, for geometric conditions for transmission density.

(i) Recommended visual diffuse transmission background densities for images of documents are as follows:

Classification	Description of document	Background density
Group 1	High-quality, high contrast printed book, periodicals, and black typing	1.3–1.5
Group 2	Fine-line originals, black opaque pencil writing, and documents with small high contrast printing	1.15–1.4
Group 3	Pencil and ink drawings, faded printing, and very small printing, such as footnotes at the bottom of a printed page.	1.0–1.2
Group 4	Low-contrast manuscripts and drawing, graph paper with pale, fine-colored lines; letters typed with a worn ribbon; and poorly printed, faint documents.	0.8–1.0
Group 5	Poor-contrast documents (special exception)	0.7–0.85

(ii) Recommended visual diffuse transmission densities for computer generated images are as follows:

Film type	Process	Density measurement method	Min. Dmax [1]	Max. Dmin [1]	Minimum density difference
Silver gelatin	Conventional	Printing or diffuse	0.75	0.15	0.60
Silver gelatin	Full reversal	Printing	1.50	0.20	1.30

[1] Character or line density, measured with a microdensitometer or by comparing the microfilm under a microscope with an image of a known density.

(3) *Base plus fog density of microfilms.* The base plus fog density of unexposed, processed microfilms must not exceed 0.10. When a tinted base film is used, the density will be increased. The difference must be added to the values given in the tables in paragraph (e)(2) of this section.

(4) *Line or stroke width.* Due to optical limitations in most micrographic systems, microfilm images of thin lines appearing in the source documents will tend to fill in as a function of their width and density. Therefore, as the reduction ratio of a given system is increased, reduce the background density as needed to ensure that the copies will be legible.

§ 1238.16 What are the microfilming requirements for temporary records, duplicates, and user copies?

(a) *Temporary records with a retention period over 99 years.* Agencies must use the microfilming requirements in § 1238.14.

(b) *Temporary records to be kept for less than 99 years, duplicates, and user copies.* NARA does not require the use of specific standards for these microforms. Agencies may select a film stock that meets their needs and ensures the preservation of the microforms for their full retention period. NARA recommends that agencies consult appropriate standards, available as noted in § 1238.3, and manufacturer's instructions for processing production, and maintenance of microform to ensure that the images are accessible and usable for the entire retention period of the records.

Subpart C—Storage, Use, and Disposition of Microform Records

§ 1238.20 How must microform records be stored?

(a) *Permanent and unscheduled records.* Agencies must store permanent and unscheduled microform records under the extended term storage conditions specified in ISO 18911:2000 and ANSI/PIMA IT9.2–1998, except that the relative humidity of the storage area must be a constant 35 percent RH, plus or minus 5 percent. Non-silver copies of microforms must be maintained in a different storage area than are silver gelatin originals or duplicate copies.

(b) *Temporary records.* Agencies must store temporary microform records under conditions that will ensure their preservation for their authorized retention period. Agencies may consult Life Expectance (LE) guidelines in ANSI/AIIM standards (see § 1238.3 for availability) for measures that can be used to meet retention requirements.

§ 1238.22 What are the inspection requirements for permanent and unscheduled microform records?

(a) Agencies must inspect, or arrange for a contractor or NARA to inspect master microforms of permanent or unscheduled records following the inspection requirements in paragraph (b) of this section.

(b) The microforms listed in paragraph (a) of this section must be inspected initially in accordance with ANSI/AIIM MS45–1990. All microforms must be inspected when they are two years old. After the initial two-year inspection, unless there is a catastrophic event, the microforms must be inspected as follows until they are transferred to NARA:

(1) For microfilm produced after 1990, inspect the microfilm every 5 years.

(2) For microfilm produced prior to 1990, inspect the microfilm every 2 years.

(c) To facilitate inspection, the agency must maintain an inventory that lists each microform series or publication by production date, producer, processor, format, and results of previous inspections.

(d) The inspection must include the following elements:

(1) An inspection for aging blemishes following ANSI/AIIM MS45–1990;

(2) A rereading of resolution targets;

(3) A re-measurement of density; and

(4) A certification of the environmental conditions under which the microforms are stored, as specified in § 1238.20(a).

(e) The agency must prepare an inspection report, and send a copy to NARA in accordance with § 1238.28(c). The inspection report must contain:

(1) A summary of the inspection findings, including:

(i) A list of batches by year that includes the identification numbers of microfilm rolls and microfiche in each batch;

(ii) The quantity of microforms inspected;

(iii) An assessment of the overall condition of the microforms;

(iv) A summary of any defects discovered, e.g., redox blemishes or base deformation; and

(v) A summary of corrective actions taken.

(2) A detailed inspection log created during the inspection that contains the following information:

(i) A complete description of all records inspected (title; roll or fiche number or other unique identifier for each unit of film inspected; security classification, if any; and inclusive dates, names, or other data identifying the records on the unit of film);

(ii) The date of inspection;

(iii) The elements of inspection (see paragraph (d) of this section);

(iv) Any defects uncovered; and

(v) The corrective action taken.

(f) If an inspection finds that a master microform is deteriorating, the agency must make a silver duplicate in accordance with § 1238.14 to replace the deteriorating master. The duplicate microform must meet inspection requirements (see § 1238.22) before it may be transferred to a record center or NARA.

(g) Inspections must be conducted in environmentally controlled areas in accordance with ANSI/AIIM MS45–1990.

§ 1238.24 What are NARA inspection requirements for temporary microform records?

NARA recommends, but does not require, that agencies use the inspection procedures described in § 1238.22(a).

§ 1238.26 What are the restrictions on use for permanent and unscheduled microform records?

(a) Agencies must not use the silver gelatin master microform or duplicate silver gelatin microform of permanent or unscheduled records created in accordance with § 1238.14 of this part for reference purposes. Agencies must ensure that the master microform remains clean and undamaged during the process of making a duplicating master.

(b) Agencies must use duplicates for:

(1) Reference;

(2) Further duplication on a recurring basis;

(3) Large-scale duplication; and

(4) Distribution of records on microform.

(c) Agencies retaining the original record in accordance with an approved records disposition schedule may apply agency standards for the use of microform records.

§ 1238.28 What must agencies do when sending permanent microform records to a records storage facility?

Agencies must:

(a) Follow the procedures in part 1232 of this chapter and the additional requirements in this section.

(b) Package non-silver copies separately from the silver gelatin original or silver duplicate microform copy and clearly label them as non-silver copies.

(c) Include the following information on the transmittal (SF 135 for NARA Federal Records Centers), or in an attachment to the transmittal. For records sent to an agency records center or commercial records storage facility, submit this information to NARA as part of the documentation required by § 1232.14 of this chapter:

(1) Name of the agency and program component;

(2) The title of the records and the media and format used;

(3) The number or identifier for each unit of microform;

(4) The security classification, if any;

(5) The inclusive dates, names, or other data identifying the records to be included on a unit of microform;

(6) Finding aids that are not contained in the microform; and

(7) The inspection log forms and inspection reports required by § 1238.22(e).

(d) Agencies may transfer permanent microform records to a records storage facility meeting the storage requirements in § 1232.14(a) (see § 1233.10 of this chapter for NARA Federal Records Centers) only after the first inspection or with certification that the microforms will be inspected by the agency, a contractor, or a NARA Federal Records Center (on a reimbursable basis) when the microforms become 2 years old.

§ 1238.30 What must agencies do when transferring permanent microform records to the National Archives of the United States?

Agencies must:

(a) Follow the procedures in part 1235 of this chapter and the additional requirements in this section.

(b) If the records are not in a NARA Federal Records Center, submit the information specified in § 1232.14(c).

(c) Transfer the silver gelatin original (or duplicate silver gelatin microform created in accordance with § 1238.14) plus one microform copy.

(d) Ensure that the inspections of the microforms are up to date. NARA will not accession permanent microform records until the first inspection has been performed (when the microforms are 2 years old).

(e) Package non-silver copies separately from the silver gelatin original or silver duplicate microform copy, and clearly label them as non-silver copies.

§ 1238.32 Do agencies need to request NARA approval for the disposition of all microform and source records?

(a) *Permanent or unscheduled records.* Agencies must schedule both source documents (originals) and microforms. NARA must approve the schedule, SF 115, Request for Records Disposition Authority; in accordance with part 1225 of this chapter before any records, including source documents, may be destroyed.

(1) Agencies that comply with the standards in § 1238.14 must include on the SF 115 the following certification: ''This certifies that the records described on this form were (or will be) microfilmed in accordance with the standards set forth in 36 CFR part 1238.''

(2) Agencies using microfilming methods, materials, and procedures that do not meet the standards in § 1238.14(a) must include on the SF 115 a description of the system and standards used.

(3) When an agency intends to retain the silver original microforms of permanent records and destroy the original records, the agency must certify in writing on the SF 115 that the microform will be stored in compliance with the standards of § 1238.20 and inspected as required by § 1238.22.

(b) *Temporary records.* Agencies do not need to obtain additional NARA approval when destroying scheduled temporary records that have been microfilmed. The same approved retention period for temporary records is applied to microform copies of these records. The original records can be destroyed once microfilm is verified, unless legal or other requirements prevent their early destruction.

PART 1239—PROGRAM ASSISTANCE AND INSPECTIONS

Subpart A—General

Subpart B—Program Assistance

Subpart C—Inspections

Authority: 44 U.S.C. 2904 and 2906.

Subpart A—General

§ 1239.1 What is the scope of this part?

NARA's statutory authorities include assisting agencies in carrying out their records management responsibilities and, when necessary, inspecting agency programs and reporting to Congress on those inspections. Part 1239 identifies the types of records management guidance and program assistance NARA provides to agencies under its 44 U.S.C. chapter 29 mandate; the conditions under which NARA will invoke its inspection authority, also under chapter 29; and the requirements for agencies to cooperate fully in such inspections.

§ 1239.2 What are the authorities for this part?

The authorities for this part are 44 U.S.C. 2904 and 2906.

§ 1239.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used in Part 1239.

(b) As used in Part 1239—

Inspection means a formal review and report by NARA under 44 U.S.C. 2904(c) and 2906(a) of an agency's recordkeeping processes that focus on significant records management problems affecting records at risk that meet one or more of the following criteria:

(1) Have a direct and high impact on legal rights or government accountability;

(2) Are the subject of high profile litigation, Congressional attention, or widespread media coverage;

(3) Have high research potential; or

(4) Are permanent records with a large volume, regardless of format.

§ 1239.4 What standards are used as guidance for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 7.1, Principles of records management programmes, and 10, Monitoring and auditing, apply to this part.

Subpart B—Program Assistance

§ 1239.10 What program assistance does NARA provide?

(a) NARA publishes handbooks, conducts workshops and other training sessions, and furnishes information and guidance to Federal agencies about the creation of records, their maintenance and use, and their disposition. NARA also may conduct a targeted assistance project in cooperation with an agency to address a serious records management issue in the agency.

(b) Information on NARA handbooks and guidance is available at *http://www.archives.gov/records-mgmt/.*

(c) Information on NARA training is available at *http://www.archives.gov/records-mgmt/training/.*

§ 1239.12 Whom may agencies contact to request program assistance?

Agencies in the Washington, DC, area desiring information or assistance related to any of the areas covered by subchapter B may contact the NARA Life Cycle Management Division (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001. Agency field organizations may contact the appropriate NARA Regional Administrator regarding records management assistance, including for records in or scheduled for transfer to the records center or the archival operations within the region.

Subpart C—Inspections

§ 1239.20 When will NARA undertake an inspection?

NARA may undertake an inspection when an agency fails to address specific records management problems involving high risk to significant records. Problems may be identified through a risk assessment or through other means, such as reports in the media, Congressional inquiries, allegations of unauthorized destruction, reports issued by the GAO or an agency's Inspector General, or observations by NARA staff members. Inspections will be undertaken when other NARA program assistance efforts (see § 1239.10) have failed to mitigate situations where there is a high risk of loss of significant records, or when NARA agrees to a request from the agency head that NARA conduct an inspection to address specific significant records management issues in the agency.

§ 1239.22 How does NARA notify the agency of the inspection?

(a) Once NARA identifies the need to conduct an agency inspection, the Archivist of the United States sends a letter to the head of the agency. If the agency being inspected is a component of a cabinet department, the letter will be addressed to the head of the component, with a copy sent to the head of the department. NARA will also send copies to the agency's records officer. The letter will include:

(1) Notification that NARA intends to conduct an inspection, the records that will be inspected, and the issues to be addressed;

(2) A beginning date for the inspection that is no more than 30 days after the date of the letter; and

(3) A request that the agency appoint a point of contact who will assist NARA in conducting the inspection.

(b) If the agency does not respond to NARA's notification letter, NARA will use its statutory authority under 44 U.S.C. 2904(c)(8) to report the matter to the agency's congressional oversight committee and to the Office of Management and Budget.

§ 1239.24 How does NARA conduct an inspection?

(a) The NARA inspection team leader will coordinate with the agency point of contact to arrange an initial meeting with the agency. The initial meeting will address such matters as the parameters of the inspection, any surveys or other inspection instruments, the offices to be visited, and the timing of site visits.

(b) After the inspection is complete, NARA will prepare a draft inspection report and transmit it to the agency within 45 calendar days of the last site visit. The report will include:

(1) An executive summary;

(2) Background and purpose of inspection;

(3) Inspection methodology, including offices visited;

(4) Findings;

(5) Corrective actions needed and other recommendations; and

(6) Any necessary appendixes, such as summaries of each site visit or the inspection instrument.

(c) The draft report is sent to the agency for review, with a response deadline of 45 days.

(d) NARA will incorporate any necessary corrections or revisions in the final report and issue the report to the head of the agency within 45 days.

§ 1239.26 What are an agency's follow up obligations for an inspection report?

The agency must submit a plan of corrective action that specifies how the agency will address each inspection report recommendation, including a timeline for completion, and proposed progress reporting dates. The agency must submit the plan of corrective action to NARA within 60 days of transmission of the final report. NARA may take up to 60 days to review and comment on the plan. Once the plan is agreed upon by both sides, agencies must submit progress reports to NARA until all actions are completed.

PARTS 1240–1249—[RESERVED]

Dated: July 24, 2008.

Allen Weinstein,

Archivist of the United States.

[FR Doc. E8–17679 Filed 8–1–08; 8:45 am]

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Federal Register

Monday,

August 4, 2008

Part III

Environmental Protection Agency

40 CFR Part 180

Inert Ingredients; Extension of Effective Date of Revocation of Certain Tolerance Exemptions with Insufficient Data for Reassessment; Final Rule

Pesticide Inert Ingredients: Status of Revoked Tolerance Exemptions; Notice

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0230; FRL–8372–7]

Inert Ingredients; Extension of Effective Date of Revocation of Certain Tolerance Exemptions with Insufficient Data for Reassessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document moves the effective date of the revocation of certain inert ingredient tolerance exemptions with insufficient data for reassessment as set forth in the **Federal Register** on August 9, 2006 (71 FR 45415).

DATES: In the final rule published August 9, 2006 (71 FR 45421):

1. The effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.910: 2.a., c., i. through k., m. through o., s., t., w. through aa., and cc.

2. The effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.920: 3.a., b., e. through k., m. through p., s., y., z., bb., cc., ff., gg., ii., ll. through nn., and ss.

3. The effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.930: 4.b., c., d., f., l., n., o., s. through w., cc., and ee. through jj.

4. The effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.940: 5.a.i., ii., and 5.c.i., ii., iv., vii., and viii.

Objections and requests for hearings must be received on or before October 3, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0230. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 306–0404; e-mail address: *angulo.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

II. Background and Statutory Findings

A. Background.

In a final rule published in the **Federal Register** on August 9, 2006 (71 FR 45415) (FRL–8084–1), EPA revoked inert ingredient tolerance exemptions because insufficient data were available to the Agency to make the safety determination required by FFDCA section 408(c)(2). In reassessing the safety of the tolerance exemptions, EPA considered the validity, completeness, and reliability of the data that are available to the Agency [FFDCA section 408 (b)(2)(D)] and the available information concerning the special susceptibility of infants and children (including developmental effects from in utero exposure) [FFDCA section 408 (b)(2)(C)]. EPA concluded it had insufficient data to make the safety finding of FFDCA section 408(c)(2) and revoked the inert ingredient tolerance exemptions identified in the final rule under 40 CFR 180.910, 180.920, 180.930, and 180.940, with the revocations effective on August 9, 2008.

EPA has received communications from pesticide registrants and inert ingredient manufacturers expressing interest in supporting certain inert ingredient tolerance exemptions that were revoked in the final rule of August 9, 2006. EPA developed voluntary guidance describing how interested parties could support these revoked tolerance exemptions, including consultations with the Agency about how they can demonstrate support, identifying test materials, and providing evidence that a laboratory has been hired to conduct the study. The voluntary guidance document, entitled ''Guidance for Supporting the Inert Ingredients Subject to the Revocation Notice of August 9, 2006'', is available on EPA's Web site at *http://www.epa.gov/opprd001/inerts/*.

In the interest of keeping the stakeholders informed about activities that may affect these revoked tolerance exemptions, EPA published the support status of each of the revoked tolerance exemptions in the **Federal Register** of November 2, 2007, (72 FR 62232) (FRL–8155–4), and indicated whether the Agency had received a demonstration of intent to support (such as described in the guidance document). Be advised that the information provided in today's notice or the November 2, 2007 (72 FR 62232) notice on the revoked inert ingredients does not guarantee or in any way bind the Agency to reinstate tolerance exemptions or establish new tolerance exemptions. EPA cannot guarantee that the parties will, in fact, submit any data at all. Additionally, it is possible that the data submitted to support a tolerance exemption may not support a safety finding under FFDCA section 408(c)(2). In these cases, the tolerance exemption will not be reinstated nor will a new one be established. It is important to note that several parties have indicated that they may want to support only a portion of a tolerance exemption expression that includes a range of chemicals. At this time, EPA does not know exactly what range of chemicals within a tolerance exemption will eventually be supported by data. Until the data are submitted and reviewed, EPA will not know what portion, if any, of a current tolerance

exemption can be reinstated. If the results of the data permit, a supported exemption may be reinstated in whole, or a new tolerance exemption may be established if only a part of a revoked exemption is supported by the data. EPA recommends that registrants relying on the continued existence of a particular tolerance exemption contact the chemical's supplier to confirm their plans for supporting the exemption.

B. Moving the Effective Date of the Revocation for Supported Tolerance Exemptions

EPA has received requests for an extension of the revocation date from pesticide registrants and inert ingredient manufacturers who have demonstrated their intent to support certain inert ingredient tolerance exemptions. For each of these supported tolerance exemptions, EPA has received data development plans and schedules with all data projected to be submitted by January 2009. EPA has determined that these parties have shown a good-faith effort to develop studies in a timely manner and have followed EPA's guidance (see guidance document) describing how interested parties can support the revoked tolerance exemptions. EPA recognizes that repeat-dose studies may take about a year to conduct, and this does not include any preliminary studies that often must be completed beforehand (e.g., range finding). EPA will then analyze the submitted data and develop risk assessments prior to making a safety finding and reinstatement determination. EPA, therefore, concludes that additional time is necessary for study generation and the development of EPA's risk assessments, and that the effective date of the revocation of the supported tolerance exemptions should be moved by one year to August 9, 2009.

In addition, two other revoked tolerance exemptions received an acceptable demonstration of support and the effective date of the revocation is now August 9, 2009. In the **Federal Register** on August 9, 2006 (71 FR 45415), the Agency revoked two inert ingredient tolerance exemptions with insufficient data under 40 CFR part 180. They were inadvertently removed from the CFR some time ago but are considered to be active tolerance exemptions subject to reassessment as required by the FFDCA section 408(q). The effective date of the revocation of the following two tolerance exemptions is now August 9, 2009: 1. § 180.910: ''α-Alkyl(C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.'', and 2. § 180.930: ''α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.''

It is important to note that this action does not move the effective date of those tolerance exemptions revoked in the **Federal Register** on August 9, 2006 (71 FR 45415) for which there has been no expression of an intent to support. Elsewhere in this issue of the **Federal Register** is a document providing the revocation date of each of the inert ingredient tolerance exemptions revoked because of insufficient data on August 9, 2006. Tolerance exemptions with no expression of an intent to support are revoked as of August 9, 2008. All commodities containing residues of these revoked inert ingredients on food are adulterated under FFDCA 408 if the residues are the result of applications of pesticide products made after August 9, 2008. At this time, EPA is no longer accepting or processing applications for registrations for food-use products containing a tolerance exemption that expires on August 9, 2008 unless accompanied by a petition for a new tolerance or exemption under the Pesticide Registration Improvement Renewal Act (PRIA 2), together with all necessary supporting data. Registrants who submitted a registration application for a food-use formulation containing an inert ingredient with an expiring tolerance exemption may submit a new application for registration with only those inert ingredients that are approved for the label's use sites. If the registration application is subject to PRIA 2, including registration applications submitted under PRIA 2 that include a petition for a new or amended food-use inert ingredient, the following Web site provides useful information: *http://www.epa.gov/pesticides/fees/questions/pria21day_wrksht.pdf*. Currently approved food-use inert ingredient tolerance exemptions are found in 40 CFR part 180 *(http://www.epa.gov/opprd001/inerts/lists.html)*. Contact EPA's Inert Ingredient Assessment Branch at *inertsbranch@epa.gov* for information about how to establish a new inert ingredient.

C. What is the Agency's Authority for Taking this Action?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under FFDCA section 402(a), 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under FFDCA, but also must be registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States. Under FFDCA Section 408(e)(1)(B), 21 U.S.C. 346a(e)(1)(B), EPA may take action establishing, modifying, suspending or revoking a tolerance exemption.

III. Delayed Effective Date for Certain Tolerance Exemptions

The amendatory designations listed in this unit are reprinted from the final rule published in the **Federal Register** issue of August 9, 2006 (71 FR 45415) for the convenience of the user. The structure mirrors the amendatory designations in the original document. The asterisks represent those amendatory designations that go into effect August 9, 2008. The amendatory designations shown are those with the effective date delayed until August 9, 2009.

Section 180.910

* * * * *

a. α-Alkyl (C_9-C_{18}-ω-hydroxypoly(oxyethylene) with poly(oxyethylene) content of 2-30 moles.

* * * * *

c. α-Alkyl (C_6-C_{14})-ω-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 4-12 moles; average molecular weight (in amu) is approximately 635.

* * * * *

i. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles.

j. α-Lauryl-ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.

k. α-Lauryl-ω-hydroxypoly(oxyethylene) sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles.

* * * * *

m. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 4-14 moles or 30 moles.

n. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

o. Polyglyceryl phthalate ester of coconut oil fatty acids.

* * * * *

s. Sodium diisobutylnaphthalenesulfonate.

t. Sodium dodecylphenoxybenzenedisulfonate.

* * * * *

w. Sodium monoalkyl and dialkyl (C_8-C_{16}) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product.

x. Sodium mono- and dimethylnaphthalenesulfonates, molecular weight (in amu) 245-260.

y. Sodium mono-, di-, and tributyl naphthalenesulfonates.

z. Sodium mono-, di-, and triisopropyl naphthalenesulfonate.

aa. Sodium *N*-oleoyl-*N*-methyltaurine.

* * * * *

cc. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.

* * * * *

Section 180.920

* * * * *

a. α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene) copolymers with poly(oxypropylene); polyoxyethylene content averages 3-12 moles and polyoxypropylene content 2-9 moles.

b. α-Alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 3-20 moles.

* * * * *

e. α-Alkyl(C_{12}-C_{18})-ω-hydroxypoly (oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles.

f. α-Alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene)poly (oxypropylene) mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly(oxyethylene) poly(oxypropylene) content averages 3-20 moles.

g. α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-12 moles and the oxypropylene content is 3-7 moles.

h. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles.

i. α-Alkyl (C_{21}-C_{71})-ω-hydroxypoly (oxyethylene) in which the poly(oxyethylene) content is 2 to 91 moles and molecular weight range from 390 to 5,000.

j. *n*-Alkyl(C_8-C_{18})amine acetate.

k. Amine salts of alkyl (C_8-C_{24}) benzenesulfonic acid (butylamine, dimethylaminopropylamine, mono- and diisopropylamine, mono- , di- , and triethanolamine).

* * * * *

m. *N*,*N*-Bis[α-ethyl-ω-hydroxypoly(oxyethylene) alkylamine; the poly(oxyethylene) content averages 3 moles; the alkyl groups (C_{14}-C_{18}) are derived from tallow, or from soybean or cottonseed oil acids.

n. *N*,*N*-Bis(2-hydroxyethyl)alkylamine, where the alkyl groups (C_8-C_{18}) are derived from coconut, cottonseed, soya, or tallow acids.

o. *N*,*N*-Bis 2-(ω-hydroxypolyoxyethylene) ethyl) alkylamine; the reaction product of 1 mole *N*,*N*-bis(2-hydroxyethyl)alkylamine and 3-60 moles of ethylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

p. *N*,*N*-Bis-2-(ω-hydroxypolyoxyethylene/polyoxypropylene) ethyl alkylamine; the reaction product of 1 mole of *N*,*N*-bis(2-hydroxyethyl alkylamine) and 3-60 moles of ethylene oxide and propylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

* * * * *

s. α-(Di-*sec*-butyl)phenylpoly(oxypropylene) block polymer with poly(oxyethylene); the poly(oxypropylene) content averages 4 moles, the poly(oxyethylene) content averages 5 to 12 moles, the molecular.

* * * * *

y. Linoleic diethanolamide (CAS Reg. No. 56863–02–6).

z. Methyl bis(2-hydroxyethyl)alkyl ammonium chloride, where the carbon chain (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

* * * * *

bb. Methylnaphthalenesulfonic acid—formaldehyde condensate, sodium salt.

cc. Methyl poly(oxyethylene) alkyl ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

* * * * *

ff. Naphthalenesulfonic acid-formaldehyde condensate, ammonium and sodium salts.

gg. Partial sodium salt of *N*-lauryl-α-iminodipropionic acid.

* * * * *

ii. Primary *n*-alkylamines, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

* * * * *

ll. Sodium 1,4-dihexyl sulfosuccinate.

mm. Sodium 1,4-diisobutyl sulfosuccinate.

nn. Sodium 1,4-dipentyl sulfosuccinate.

* * * * *

ss. *N*,*N*,*N*′,*N*″-Tetrakis-(2-hydroxypropyl) ethylenediamine.

* * * * *

Section 180.930

* * * * *

b. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles.

c. α-Alkyl (C_8-C_{10}) hydroxypoly(oxypropylene) block

polymer with polyoxyethylene; polyoxypropylene content averages 3 moles and polyoxyethylene content averages 5-12 moles.

d. α-Alkyl (C_6-C_{14})-ω-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight (in amu) approximately 635.

* * * * *

f. Amine salts of alkyl (C_8-C_{24}) benzenesulfonic acid (butylamine; dimethylamino propylamine; mono- and diisopropyl- amine; and mono- , di- , and triethanolamine).

* * * * *

l. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles.

* * * * *

n. α-Lauryl-ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600.

o. α-Lauryl-ω-hydroxypoly(oxyethylene), sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles.

* * * * *

s. Naphthalenesulfonic acid and its sodium salt.

t. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.

u. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.

v. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 or 30-90 moles of ethyiene oxide.

w. Polyglyceryl phthalate esters of coconut oil fatty acids.

* * * * *

cc. Sodium diisobutylnaphthalenesulfonate.

* * * * *

ee. Sodium isopropylnaphthalenesulfonate.

ff. Sodium monoalkyl and diakyl (C_8-C_{13}) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product.

gg. Sodium mono- and dimethylnaphthalenesulfonate, molecular weight (in amu) 245-260.

hh. Sodium mono-, di-, and tributylnaphthalenesulfonates.

ii. Sodium *N*-oleoyl-*N*-methyl taurine.

jj. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p* (1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.

* * * * *

Paragraph (a) to Section 180.940

* * * * *

i. α-Alkyl(C_{10}-C_{14})-ω- hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 768 to 837.

ii. α-Alkyl(C_{12}-C_{18})-ω hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120.

* * * * *

Paragraph (c) to Section 180.940

* * * * *

i. α-Alkyl(C_{10}-C_{14})-ω-hydroxypoly (oxyethylene) poly (oxypropylene) average molecular weight (in amu), 768 to 837.

ii. α-Alkyl(C_{11}-C_{15})-ω-hydroxypoly (oxyethylene) with ethylene oxide content 9 to 13 moles.

* * * * *

iv. α-Alkyl(C_{12}-C_{18})-ω-hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120.

* * * * *

vii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives.

viii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives alkylated at 3% by weight with C_6-C_9 linear olefins.

* * * * *

IV. Statutory and Executive Order Reviews

This rule changes the effective date of the revocation of certain tolerance exemptions under section 408(d) of FFDCA. The Office of Management and Budget (OMB) has exempted tolerance exemption actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*), the Agency hereby certifies that this action will not have a significant negative economic impact on a substantial number of small entities. The factual basis for this certification is included in Unit II.B.8.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 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 rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175 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.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

List of Subjects in 40 CFR Part 180

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

Dated: July 23, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

§ 180.910 [Amended]

■ 2. In the final rule published August 9, 2006 (71 FR 45421), the effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.910: 2.a., c., i. through k., m. through o., s., t., w. through aa., and cc.

§ 180.920 [Amended]

■ 3. In the final rule published August 9, 2006 (71 FR 45421), the effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.920: 3.a., b., e. through k., m. through p., s., y., z., bb., cc., ff., gg., ii., ll. through nn., and ss.

§ 180.930 [Amended]

■ 4. In the final rule published August 9, 2006 (71 FR 45421), the effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments to § 180.930: 4.b., c., d., f., l., n., o., s. through w., cc., and ee. through jj.

§ 180.940 [Amended]

■ 5. In the final rule published August 9, 2006 (71 FR 45421), the effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments in paragraph (a) to § 180.940: 5.a.i. and ii.

■ 6. In the final rule published August 9, 2006 (71 FR 45421), the effective date is delayed from August 9, 2008, to August 9, 2009, for the following amendments in paragraph (c) to § 180.940: 5.c.i., ii., iv., vii. and viii.

[FR Doc. E8–17458 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1060; FRL–8373–6]

Pesticide Inert Ingredients: Status of Revoked Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is providing the status of inert ingredient tolerance exemptions revoked in the **Federal Register** on August 9, 2006 (71 FR 45415) because of insufficient data.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0404; fax number: (703) 605–0781; e-mail address: *angulo.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Crop production (NAICS code 111).

Animal production (NAICS code 112).

Food manufacturing (NAICS code 311).

Pesticide manufacturing (NAICS code 32532).

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–1060. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. Background on the Inert Ingredient Tolerance Exemption Revocation Action

In a final rule published in the **Federal Register** on August 9, 2006 (71 FR 45415)(FRL–8084–1), EPA revoked inert ingredient tolerance exemptions because insufficient data were available to the Agency to make the safety determination required by FFDCA section 408(c)(2). EPA concluded it had insufficient data to make the safety finding of FFDCA section 408(c)(2) and revoked the inert ingredient tolerance exemptions identified in the final rule under 40 CFR 180.910, 180.920, 180.930, and 180.940, with the revocations effective on August 9, 2008. This action did not preclude the possibility that through rulemaking EPA could reinstate those tolerance exemptions for which data are submitted that are sufficient to support the 408(c)(2) safety finding.

In the **Federal Register** of November 2, 2007, (72 FR 62232)(FRL–8155–4), EPA published the support status of each of the revoked tolerance exemptions. EPA had received communications from pesticide registrants and inert ingredient manufacturers expressing interest in supporting certain revoked inert ingredient tolerance exemptions. EPA's guidance, available at *http://www.epa.gov/opprd001/inerts/*, describes how interested parties could demonstrate support for revoked tolerance exemptions, including identifying test materials and contracts with laboratories.

Elsewhere in this issue of the **Federal Register** is the final rule that moves the effective date of the revocation to August 9, 2009 for those tolerance exemptions where EPA has received a demonstration of intent to support. No extensions are granted for revoked tolerance exemptions where EPA has not received a demonstration of intent to support, therefore, the revocation date for unsupported tolerance exemptions remains August 9, 2008.

B. Effective Dates of the Revocation of Tolerance Exemptions with Insufficient Data

The following provides the revocation status of each of the inert ingredient tolerance exemptions revoked because of insufficient data. The tolerance exemptions are presented below in the order they appeared in the final rule published in the **Federal Register** on August 9, 2006 (71 FR 45415). The revocation status has been added to the end of each tolerance exemption expression. The expiration date of August 9, 2009 applies to tolerance exemption expressions with the following at the end: ''(Demonstration of intent to support; revocation effective August 9, 2009).'' Tolerance exemption expressions with ''(No demonstration of support; revocation effective August 9, 2008)'' expire on August 9, 2008. In addition, administrative revocation was completed in the **Federal Register** on August 9, 2006 (71 FR 45415) for seven redundant and incorrect tolerance exemptions, which are identified here as ''(Administrative revocation is complete; revoked August 9, 2006)''.

Two other revoked tolerance exemptions received an acceptable demonstration of support and the effective date of the revocation is now August 9, 2009. In the **Federal Register** on August 9, 2006 (71 FR 45415), the Agency revoked two inert ingredient tolerance exemptions with insufficient data under 40 CFR part 180. They were inadvertently removed from the CFR some time ago but are considered to be active tolerance exemptions subject to reassessment as required by the FFDCA section 408(q). The effective date of the revocation of the following two tolerance exemptions is now August 9, 2009:

1. Section 180.910: ''α-Alkyl(C_{12}-C_{15})-ω- hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.'', and

2. Section 180.930: ''α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.''

C. Unsupported Inert Ingredient Tolerance Exemptions

It is important to note that EPA has not received indications of intent to support many of the inert ingredient

tolerance exemptions revoked in the **Federal Register** on August 9, 2006 (71 FR 45415). The unsupported tolerance exemptions are identified in the list in this Unit with ''(No demonstration of intent to support; revocation effective August 9, 2008)'' at the end of the expression. No time extension is granted for the revoked tolerance exemptions where EPA has not received a demonstration of intent to support, therefore, the expiration date for those tolerance exemptions with no indication of intent to support remains August 9, 2008. Please note that this revocation action only affects the use of these inert ingredients in food-use pesticide products, therefore, any current use of these inert ingredients in non-food use pesticide products is not affected.

At this time, EPA is no longer accepting or processing applications for registrations for food-use products containing a tolerance exemption that expires on August 9, 2008 unless accompanied by a petition for a new tolerance or exemption under the Pesticide Registration Improvement Renewal Act (PRIA 2), together with all necessary supporting data. All commodities containing residues of these revoked inert ingredients on food are adulterated under FFDCA 408 if the residues are the result of applications of pesticide products made after August 9, 2008. Registrants who submitted a registration application for a food-use formulation containing an inert ingredient with an expiring tolerance exemption may submit a new application for registration with only those inert ingredients that are approved for the label's use sites. If the registration application is subject to, including registration applications submitted under PRIA 2 that include a petition for a new or amended food-use inert ingredient, the following Web site provides useful information: *http://www.epa.gov/pesticides/fees/questions/pria21day_wrksht.pdf*. Currently approved food-use inert ingredient tolerance exemptions are found in 40 CFR part 180 *(http://www.epa.gov/opprd001/inerts/lists.html)*. Contact EPA's Inert Ingredient Assessment Branch at *inertsbranch@epa.gov* for information about how to establish a new inert ingredient.

Under § 180.910:

a. α-Alkyl (C_9-C_{18}-ω-hydroxypoly(oxyethylene) with poly(oxyethylene) content of 2-30 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

b. α-(*p*-Alkylphenyl)-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C_{13}) with 6 moles of ethylene oxide. (No demonstration of intent to support; revocation effective August 9, 2008)

c. α-Alkyl (C_6-C_{14})-ω-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 4-12 moles; average molecular weight (in amu) is approximately 635. (Demonstration of intent to support; revocation effective August 9, 2009)

d. α-(*p*-*tert*-Butylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

e. α-(*o*,*p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

f. α-(*o*,*p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene) produced by condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 or 140-160 moles of ethylene oxide. (No demonstration of intent to support; revocation effective August 9, 2008)

g. Dodecylbenzenesulfonic acid, amine salts. (No demonstration of intent to support; revocation effective August 9, 2008)

h. α-(*p*-Dodecylphenyl)-ω-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70. (No demonstration of intent to support; revocation effective August 9, 2008)

i. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

j. α-Lauryl-ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600. (Demonstration of intent to support; revocation effective August 9, 2009)

k. α-Lauryl-ω-hydroxypoly(oxyethylene) sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

l. Manganous oxide. (No demonstration of intent to support; revocation effective August 9, 2008)

m. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 4-14 moles or 30 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

n. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

o. Polyglyceryl phthalate ester of coconut oil fatty acids. (Demonstration of intent to support; revocation effective August 9, 2009)

p. Poly(methylene-*p*-*tert*-butylphenoxy)- poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

q. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

r. Secondary alkyl (C_{11}-C_{15}) poly(oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

s. Sodium diisobutylnaphthalenesulfonate. (Demonstration of intent to support; revocation effective August 9, 2009)

t. Sodium dodecylphenoxybenzenedisulfonate.

(Demonstration of intent to support; revocation effective August 9, 2009)

u. Sodium isopropylisohexylnaphthalenesulfonate. (No demonstration of intent to support; revocation effective August 9, 2008)

v. Sodium lauryl glyceryl ether sulfonate. (No demonstration of intent to support; revocation effective August 9, 2008)

w. Sodium monoalkyl and dialkyl (C_8-C_{16}) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product. (Demonstration of intent to support; revocation effective August 9, 2009)

x. Sodium mono- and dimethylnaphthalenesulfonates, molecular weight (in amu) 245-260. (Demonstration of intent to support; revocation effective August 9, 2009)

y. Sodium mono-, di-, and tributyl naphthalenesulfonates. (Demonstration of intent to support; revocation effective August 9, 2009)

z. Sodium mono-, di-, and triisopropyl naphthalenesulfonate. (Demonstration of intent to support; revocation effective August 9, 2009)

aa. Sodium *N*-oleoyl-*N*-methyltaurine. (Demonstration of intent to support; revocation effective August 9, 2009)

bb. Sodium sulfite. (No demonstration of intent to support; revocation effective August 9, 2008. The tolerance exemption under § 180.910 is revoked. Please note that EPA is currently evaluating a petition for an exemption from the requirement of a tolerance for a limited use of sodium sulfite as an inert ingredient. See the notice of filing published in the **Federal Register** on February 6, 2008 (73 FR 6964)(FRL–8350–6)).

cc. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70. (Demonstration of intent to support; revocation effective August 9, 2009)

dd. α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70. (Administrative revocation is complete; revoked August 9, 2006)

ee. Tridecylpoly(oxyethylene) acetate, sodium salt; where the ethylene oxide content averages 6-7 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

In the final rule published in the **Federal Register** on August 9, 2006 (71 FR 45415), the Agency revoked one other inert ingredient tolerance exemption that was inadvertently removed from the CFR some time ago but is considered to be an active tolerance exemption under § 180.910:

''α-Alkyl(C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.'' (Demonstration of intent to support; revocation effective August 9, 2009)

Under § 180.920:

a. α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene) copolymers with poly(oxypropylene); polyoxyethylene content averages 3-12 moles and polyoxypropylene content 2-9 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

b. α-Alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 3-20 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

c. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfosuccinate, isopropylamine and *N*-hydroxyethyl isopropylamine salts of; the poly(oxyethylene) content averages 3-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

d. α-Alkyl(C_{10}-$_{12}$)-ω-hydroxpoly(oxyethylene) poly(oxypropylene) copolymer; poly(oxyethylene) content is 11-15 moles; poly(oxyproplene) content is 1-3 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

e. α-Alkyl(C_{12}-C_{18})-ω-hydroxypoly (oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

f. α-Alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene)poly (oxypropylene) mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly(oxyethylene) poly(oxypropylene) content averages 3-20 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

g. α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-12 moles and the oxypropylene content is 3-7 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

h. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

i. α-Alkyl (C_{21}-C_{71})-ω-hydroxypoly (oxyethylene) in which the poly(oxyethylene) content is 2 to 91 moles and molecular weight range from 390 to 5,000. (Demonstration of intent to support; revocation effective August 9, 2009)

j. *n*-Alkyl(C_8-C_{18})amine acetate. (Demonstration of intent to support; revocation effective August 9, 2009)

k. Amine salts of alkyl (C_8-C_{24}) benzenesulfonic acid (butylamine, dimethylaminopropylamine, mono- and diisopropylamine, mono- , di- , and triethanolamine). (Demonstration of intent to support; revocation effective August 9, 2009)

l. *N*-(Aminoethyl) ethanolamine salt of dodecylbenzenesulfonic acid. (No demonstration of intent to support; revocation effective August 9, 2008)

m. *N*,*N*-Bis[α-ethyl-ω-hydroxypoly(oxyethylene) alkylamine; the poly(oxyethylene) content averages 3 moles; the alkyl groups (C_{14}-C_{18}) are derived from tallow, or from soybean or cottonseed oil acids. (Demonstration of intent to support; revocation effective August 9, 2009)

n. *N*,*N*-Bis(2-hydroxyethyl)alkylamine, where the alkyl groups (C_8-C_{18}) are derived from coconut, cottonseed, soya, or tallow acids. (Demonstration of intent to support; revocation effective August 9, 2009)

o. *N*,*N*-Bis 2-(ω-hydroxypolyoxyethylene) ethyl) alkylamine; the reaction product of 1 mole *N*,*N*-bis(2-hydroxyethyl)alkylamine and 3-60 moles of ethylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

(Demonstration of intent to support; revocation effective August 9, 2009)

p. *N*,*N*-Bis-2-(ω-hydroxypolyoxyethylene/polyoxypropylene) ethyl alkylamine; the reaction product of 1 mole of *N*,*N*-bis(2-hydroxyethyl alkylamine) and 3-60 moles of ethylene oxide and propylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids. (Demonstration of intent to support; revocation effective August 9, 2009)

q. Butoxytriethylene glycol phosphate. (No demonstration of intent to support; revocation effective August 9, 2008)

r. Cyclohexanol. (No demonstration of intent to support; revocation effective August 9, 2008)

s. α-(Di-*sec*-butyl)phenylpoly(oxypropylene) block polymer with poly(oxyethylene); the poly(oxypropylene) content averages 4 moles, the poly(oxyethylene) content averages 5 to 12 moles, the molecular. (Demonstration of intent to support; revocation effective August 9, 2009)

t. Disodium 4-isodecyl sulfosuccinate. (No demonstration of intent to support; revocation effective August 9, 2008)

u. Dodecylphenol. (No demonstration of intent to support; revocation effective August 9, 2008)

v. α-Dodecylphenol-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer where ethylene oxide content is 11-13 moles and oxypropylene content is 14-16 moles, molecular weight (in amu) averages 600 to 965. (No demonstration of intent to support; revocation effective August 9, 2008)

w. Isopropylbenzenesulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts. (No demonstration of intent to support; revocation effective August 9, 2008)

x. (3-Lauramidopropyl) trimethylammonium methyl sulfate. (No demonstration of intent to support; revocation effective August 9, 2008)

y. Linoleic diethanolamide (CAS Reg. No. 56863–02–6). (Demonstration of intent to support; revocation effective August 9, 2009)

z. Methyl bis(2-hydroxyethyl)alkyl ammonium chloride, where the carbon chain (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids. (Demonstration of intent to support; revocation effective August 9, 2009)

aa. α,α′-[Methylenebis]-4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene bis[ω-hydroxypoly(oxyethylene)] having 6-7.5 moles of ethylene oxide per hydroxyl group. (No demonstration of intent to support; revocation effective August 9, 2008)

bb. Methylnaphthalenesulfonic acid—formaldehyde condensate, sodium salt. (Demonstration of intent to support; revocation effective August 9, 2009)

cc. Methyl poly(oxyethylene) alkyl ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids. (Demonstration of intent to support; revocation effective August 9, 2009)

dd. Methyl violet 2B. (No demonstration of intent to support; revocation effective August 9, 2008)

ee. Morpholine salt of dodecylbenzenesulfonic acid. (No demonstration of intent to support; revocation effective August 9, 2008)

ff. Naphthalenesulfonic acid-formaldehyde condensate, ammonium and sodium salts. (Demonstration of intent to support; revocation effective August 9, 2009)

gg. Partial sodium salt of *N*-lauryl-α-iminodipropionic acid. (Demonstration of intent to support; revocation effective August 9, 2009)

hh. Poly(methylene-*p*-nonylphenoxy)poly(oxypropylene) propanol; the poly(oxy-propylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

ii. Primary *n*-alkylamines, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids. (Demonstration of intent to support; revocation effective August 9, 2009)

jj. Sodium butyl naphthalenesulfonate. (Administrative revocation is complete; revoked August 9, 2006)

kk. Sodium 1,4-dicyclohexyl sulfosuccinate. (No demonstration of intent to support; revocation effective August 9, 2008)

ll. Sodium 1,4-dihexyl sulfosuccinate. (Demonstration of intent to support; revocation effective August 9, 2009)

mm. Sodium 1,4-diisobutyl sulfosuccinate. (Demonstration of intent to support; revocation effective August 9, 2009)

nn. Sodium 1,4-dipentyl sulfosuccinate. (Demonstration of intent to support; revocation effective August 9, 2009)

oo. Sodium 1,4-ditridecyl sulfosuccinate. (No demonstration of intent to support; revocation effective August 9, 2008)

pp. Sodium mono- and dimethyl naphthalenesulfonate; molecular weight (in amu) 245-260. (Administrative revocation is complete; revoked August 9, 2006)

qq. Sulfosuccinic acid ester with *N*-(2,-hydroxy-propyl) oleamide, ammonia and isopropylamine salts of. (No demonstration of intent to support; revocation effective August 9, 2008)

rr. Tall oil diesters with polypropylene glycol (CAS Reg. No. 68648–12–4). (No demonstration of intent to support; revocation effective August 9, 2008)

ss. *N*,*N*,*N*′,*N*′′–Tetrakis–(2-hydroxypropyl) ethylenediamine. (Demonstration of intent to support; revocation effective August 9, 2009)

tt. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding sodium salts of the phosphate esters; the poly(oxyethylene) content averages 6 to 10 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

Under § 180.930:

a. α-Alkyl (C_9-C_{18})-ω-hydroxy poly(oxyethylene): the poly(oxyethylene) content averages 2-20 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

b. α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene/oxypropylene) hetero polymer in which the oxyethylene content is 8-13 moles and the oxypropylene content is 7-30 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

c. α-Alkyl (C_8-C_{10}) hydroxypoly(oxypropylene) block polymer with polyoxyethylene; polyoxypropylene content averages 3 moles and polyoxyethylene content averages 5-12 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

d. α-Alkyl (C_6-C_{14})-ω-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight (in amu) approximately 635. (Demonstration of intent to support; revocation effective August 9, 2009)

e. α-(*p*-Alkylphenyl)-ω-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C_{13}) with 6 moles of ethylene oxide. (No demonstration of intent to support; revocation effective August 9, 2008)

f. Amine salts of alkyl (C_8-C_{24}) benzenesulfonic acid (butylamine; dimethylamino propylamine; mono- and diisopropyl-amine; and mono-, di-,

and triethanolamine). (Demonstration of intent to support; revocation effective August 9, 2009)

g. α-(*p-tert-* Butylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

h. α-(*o,p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

i. α-(*o,p*-Dinonylphenyl)-ω-hydroxypoly (oxyethylene), produced by the condensation of 1 mole of dinonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 moles of ethylene oxide. (No demonstration of intent to support; revocation effective August 9, 2008)

j. Dodecylbenzenesulfonic acid, amine salts. (No demonstration of intent to support; revocation effective August 9, 2008)

k. α-(*p*-Dodecylphenyl)-ω-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

l. Ethylene oxide adducts of 2,4,7,9-tetramethyl-5-decynediol, the ethylene oxide content averages 3.5, 10, or 30 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

m. Ethyl vinyl acetate (CAS Reg. No. 24937–78–8). (Administrative revocation is complete; revoked August 9, 2006)

n. α–Lauryl–ω-hydroxypoly(oxyethylene), average molecular weight (in amu) of 600. (Demonstration of intent to support; revocation effective August 9, 2009)

o. α-Lauryl-ω-hydroxypoly(oxyethylene), sulfate, sodium salt; the poly(oxyethylene) content is 3-4 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

p. Manganous oxide. (No demonstration of intent to support; revocation effective August 9, 2008)

q. α-(Methylene (4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene) bis-ω-hydroxypoly(oxyethylene) having 6-7.5 moles of ethylene oxide per hydroxyl group. (Administrative revocation is complete; revoked August 9, 2006)

r. Mono-, di-, and trimethylnaphthalenesulfonic acids-formaldehyde condensates, sodium salts. (No demonstration of intent to support; revocation effective August 9, 2008)

s. Naphthalenesulfonic acid and its sodium salt. (Demonstration of intent to support; revocation effective August 9, 2009)

t. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

u. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

v. α-(*p*-Nonylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 or 30-90 moles of ethyiene oxide. (Demonstration of intent to support; revocation effective August 9, 2009)

w. Polyglyceryl phthalate esters of coconut oil fatty acids. (Demonstration of intent to support; revocation effective August 9, 2009)

x. Poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

y. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) ethanol; the poly(oxyethylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

z. Poly(methylene-*p*-nonylphenoxy)poly(oxypropylene) propanol; the poly(oxypropylene) content averages 4-12 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

aa. Secondary alkyl (C_{11}-C_{15}) poly(oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

bb. Sodium butylnaphthalenesulfonate. (Administrative revocation is complete; revoked August 9, 2006)

cc. Sodium diisobutylnaphthalenesulfonate. (Demonstration of intent to support; revocation effective August 9, 2009)

dd. Sodium isopropylisohexylnaphthalenesulfonate. (No demonstration of intent to support; revocation effective August 9, 2008)

ee. Sodium isopropylnaphthalenesulfonate. (Demonstration of intent to support; revocation effective August 9, 2009)

ff. Sodium monoalkyl and diakyl (C_8-C_{13}) phenoxybenzenedisulfonate mixtures containing not less than 70% of the monoalkylated product. (Demonstration of intent to support; revocation effective August 9, 2009)

gg. Sodium mono- and dimethylnaphthalenesulfonate, molecular weight (in amu) 245-260. (Demonstration of intent to support; revocation effective August 9, 2009)

hh. Sodium mono-, di-, and tributylnaphthalenesulfonates. (Demonstration of intent to support; revocation effective August 9, 2009)

ii. Sodium *N*-oleoyl-*N*-methyl taurine. (Demonstration of intent to support; revocation effective August 9, 2009)

jj. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p* (1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide: if a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70. (Demonstration of intent to support; revocation effective August 9, 2009)

kk. α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,-3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of

ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70. (Administrative revocation is complete; revoked August 9, 2006)

ll. Tridecylpoly(oxyethylene) acetate sodiums salt; where the ethylene oxide content averages 6-7 moles. (No demonstration of intent to support; revocation effective August 9, 2008)

In the final rule published in the **Federal Register** on August 9, 2006 (71 FR 45415), the Agency revoked one other inert ingredient tolerance exemption that was inadvertently removed from the CFR some time ago but is considered to be an active tolerance exemption under § 180.930:

''α-Alkyl (C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.'' (Demonstration of intent to support; revocation effective August 9, 2009)

Under § 180.940:

Under paragraph (a):

i. α-Alkyl(C_{10}-C_{14})-ω- hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 768 to 837. (Demonstration of intent to support; revocation effective August 9, 2009)

ii. α-Alkyl(C_{12}-C_{18})-ω hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120. (Demonstration of intent to support; revocation effective August 9, 2009)

Under paragraph (b):

i. α-Lauroyl-ω-hydroxypoly (oxyethylene) with an average of 8-9 moles ethylene oxide, average molecular weight (in amu), 400. (No demonstration of intent to support; revocation effective August 9, 2008)

ii. Oxirane, methyl-, polymer with oxirane, ether with (1,2-ethanediyldinitrilo)tetrakis [propanol] (4:1). (No demonstration of intent to support; revocation effective August 9, 2008)

Under paragraph (c):

i. α-Alkyl(C_{10}-C_{14})-ω-hydroxypoly (oxyethylene) poly (oxypropylene) average molecular weight (in amu), 768 to 837. (Demonstration of intent to support; revocation effective August 9, 2009)

ii. α-Alkyl(C_{11}-C_{15})-ω-hydroxypoly (oxyethylene) with ethylene oxide content 9 to 13 moles. (Demonstration of intent to support; revocation effective August 9, 2009)

iii. α-Alkyl(C_{12}-C_{15})-ω-hydroxypoly (oxyethylene) polyoxypropylene, average molecular weight (in amu), 965. (No demonstration of intent to support; revocation effective August 9, 2008)

iv. α-Alkyl(C_{12}-C_{18})-ω-hydroxypoly (oxyethylene) poly(oxypropylene) average molecular weight (in amu), 950 to 1120. (Demonstration of intent to support; revocation effective August 9, 2009)

v. α-Lauroyl-ω-hydroxypoly (oxyethylene) with an average of 8-9 moles ethylene oxide, average molecular weight (in amu), 400. (No demonstration of intent to support; revocation effective August 9, 2008)

vi. Naphthalene sulfonic acid, sodium salt. (No demonstration of intent to support; revocation effective August 9, 2008)

vii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives. (Demonstration of intent to support; revocation effective August 9, 2009)

viii. Naphthalene sulfonic acid sodium salt, and its methyl, dimethyl and trimethyl derivatives alkylated at 3% by weight with C_6-C_9 linear olefins. (Demonstration of intent to support; revocation effective August 9, 2009)

ix. Oxirane, methyl-, polymer with oxirane, ether with (1,2-ethanediyldinitrilo)tetrakis [propanol] (4:1). (No demonstration of intent to support; revocation effective August 9, 2008)

List of Subjects

Environmental protection.

Dated: July 22, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E8–17457 Filed 8–1–08; 8:45 am]

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Federal Register

Monday,
August 4, 2008

Part IV

The President

Executive Order 13470—Further Amendments to Executive Order 12333, United States Intelligence Activities

Federal Register
Vol. 73, No. 150
Monday, August 4, 2008

Presidential Documents

Title 3—

The President

Executive Order 13470 of July 30, 2008

Further Amendments to Executive Order 12333, United States Intelligence Activities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), and in order to update and clarify Executive Order 13355 of August 27, 2004, Executive Order 12333 of December 4, 1981, as amended, is hereby further amended as follows:

Section 1. The Preamble to Executive Order 12333, as amended, is further amended by:

(a) Striking ''and'' and inserting in lieu thereof a comma before the word ''accurate'', and inserting '', and insightful'' after the word ''accurate'' in the first sentence;

(b) Striking ''statutes'' and inserting in lieu thereof ''the laws'' before ''of the United States of America'' in the third sentence; and

(c) Striking ''the'' before ''United States intelligence activities'' in the third sentence.

Sec. 2. Executive Order 12333, as amended, is further amended by striking Part 1 in its entirety and inserting in lieu thereof the following new part:

PART 1 *Goals, Directions, Duties, and Responsibilities with Respect to United States Intelligence Efforts*

1.1 *Goals.* The United States intelligence effort shall provide the President, the National Security Council, and the Homeland Security Council with the necessary information on which to base decisions concerning the development and conduct of foreign, defense, and economic policies, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) All means, consistent with applicable Federal law and this order, and with full consideration of the rights of United States persons, shall be used to obtain reliable intelligence information to protect the United States and its interests.

(b) The United States Government has a solemn obligation, and shall continue in the conduct of intelligence activities under this order, to protect fully the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by Federal law.

(c) Intelligence collection under this order should be guided by the need for information to respond to intelligence priorities set by the President.

(d) Special emphasis should be given to detecting and countering:

(1) Espionage and other threats and activities directed by foreign powers or their intelligence services against the United States and its interests;

(2) Threats to the United States and its interests from terrorism; and

(3) Threats to the United States and its interests from the development, possession, proliferation, or use of weapons of mass destruction.

(e) Special emphasis shall be given to the production of timely, accurate, and insightful reports, responsive to decisionmakers in the executive branch, that draw on all appropriate sources of information, including open source

information, meet rigorous analytic standards, consider diverse analytic viewpoints, and accurately represent appropriate alternative views.

(f) State, local, and tribal governments are critical partners in securing and defending the United States from terrorism and other threats to the United States and its interests. Our national intelligence effort should take into account the responsibilities and requirements of State, local, and tribal governments and, as appropriate, private sector entities, when undertaking the collection and dissemination of information and intelligence to protect the United States.

(g) All departments and agencies have a responsibility to prepare and to provide intelligence in a manner that allows the full and free exchange of information, consistent with applicable law and presidential guidance.

1.2 *The National Security Council.*

(a) *Purpose.* The National Security Council (NSC) shall act as the highest ranking executive branch entity that provides support to the President for review of, guidance for, and direction to the conduct of all foreign intelligence, counterintelligence, and covert action, and attendant policies and programs.

(b) *Covert Action and Other Sensitive Intelligence Operations.* The NSC shall consider and submit to the President a policy recommendation, including all dissents, on each proposed covert action and conduct a periodic review of ongoing covert action activities, including an evaluation of the effectiveness and consistency with current national policy of such activities and consistency with applicable legal requirements. The NSC shall perform such other functions related to covert action as the President may direct, but shall not undertake the conduct of covert actions. The NSC shall also review proposals for other sensitive intelligence operations.

1.3 *Director of National Intelligence.* Subject to the authority, direction, and control of the President, the Director of National Intelligence (Director) shall serve as the head of the Intelligence Community, act as the principal adviser to the President, to the NSC, and to the Homeland Security Council for intelligence matters related to national security, and shall oversee and direct the implementation of the National Intelligence Program and execution of the National Intelligence Program budget. The Director will lead a unified, coordinated, and effective intelligence effort. In addition, the Director shall, in carrying out the duties and responsibilities under this section, take into account the views of the heads of departments containing an element of the Intelligence Community and of the Director of the Central Intelligence Agency.

(a) Except as otherwise directed by the President or prohibited by law, the Director shall have access to all information and intelligence described in section 1.5(a) of this order. For the purpose of access to and sharing of information and intelligence, the Director:

(1) Is hereby assigned the function under section 3(5) of the Act, to determine that intelligence, regardless of the source from which derived and including information gathered within or outside the United States, pertains to more than one United States Government agency; and

(2) Shall develop guidelines for how information or intelligence is provided to or accessed by the Intelligence Community in accordance with section 1.5(a) of this order, and for how the information or intelligence may be used and shared by the Intelligence Community. All guidelines developed in accordance with this section shall be approved by the Attorney General and, where applicable, shall be consistent with guidelines issued pursuant to section 1016 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458) (IRTPA).

(b) In addition to fulfilling the obligations and responsibilities prescribed by the Act, the Director:

(1) Shall establish objectives, priorities, and guidance for the Intelligence Community to ensure timely and effective collection, processing, analysis,

and dissemination of intelligence, of whatever nature and from whatever source derived;

(2) May designate, in consultation with affected heads of departments or Intelligence Community elements, one or more Intelligence Community elements to develop and to maintain services of common concern on behalf of the Intelligence Community if the Director determines such services can be more efficiently or effectively accomplished in a consolidated manner;

(3) Shall oversee and provide advice to the President and the NSC with respect to all ongoing and proposed covert action programs;

(4) In regard to the establishment and conduct of intelligence arrangements and agreements with foreign governments and international organizations:

(A) May enter into intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations;

(B) Shall formulate policies concerning intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations; and

(C) Shall align and synchronize intelligence and counterintelligence foreign relationships among the elements of the Intelligence Community to further United States national security, policy, and intelligence objectives;

(5) Shall participate in the development of procedures approved by the Attorney General governing criminal drug intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(6) Shall establish common security and access standards for managing and handling intelligence systems, information, and products, with special emphasis on facilitating:

(A) The fullest and most prompt access to and dissemination of information and intelligence practicable, assigning the highest priority to detecting, preventing, preempting, and disrupting terrorist threats and activities against the United States, its interests, and allies; and

(B) The establishment of standards for an interoperable information sharing enterprise that facilitates the sharing of intelligence information among elements of the Intelligence Community;

(7) Shall ensure that appropriate departments and agencies have access to intelligence and receive the support needed to perform independent analysis;

(8) Shall protect, and ensure that programs are developed to protect, intelligence sources, methods, and activities from unauthorized disclosure;

(9) Shall, after consultation with the heads of affected departments and agencies, establish guidelines for Intelligence Community elements for:

(A) Classification and declassification of all intelligence and intelligence-related information classified under the authority of the Director or the authority of the head of a department or Intelligence Community element; and

(B) Access to and dissemination of all intelligence and intelligence-related information, both in its final form and in the form when initially gathered, to include intelligence originally classified by the head of a department or Intelligence Community element, except that access to and dissemination of information concerning United States persons shall be governed by procedures developed in accordance with Part 2 of this order;

(10) May, only with respect to Intelligence Community elements, and after consultation with thehead of the originating Intelligence Community element or the head of the originating department, declassify, or direct the declassification of, information or intelligence relating to intelligence

sources, methods, and activities. The Director may only delegate this authority to the Principal Deputy Director of National Intelligence;

(11) May establish, operate, and direct one or more national intelligence centers to address intelligence priorities;

(12) May establish Functional Managers and Mission Managers, and designate officers or employees of the United States to serve in these positions.

(A) Functional Managers shall report to the Director concerning the execution of their duties as Functional Managers, and may be charged with developing and implementing strategic guidance, policies, and procedures for activities related to a specific intelligence discipline or set of intelligence activities; set training and tradecraft standards; and ensure coordination within and across intelligence disciplines and Intelligence Community elements and with related non-intelligence activities. Functional Managers may also advise the Director on: the management of resources; policies and procedures; collection capabilities and gaps; processing and dissemination of intelligence; technical architectures; and other issues or activities determined by the Director.

(i) The Director of the National Security Agency is designated the Functional Manager for signals intelligence;

(ii) The Director of the Central Intelligence Agency is designated the Functional Manager for human intelligence; and

(iii) The Director of the National Geospatial-Intelligence Agency is designated the Functional Manager for geospatial intelligence.

(B) Mission Managers shall serve as principal substantive advisors on all or specified aspects of intelligence related to designated countries, regions, topics, or functional issues;

(13) Shall establish uniform criteria for the determination of relative priorities for the transmission of critical foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such communications;

(14) Shall have ultimate responsibility for production and dissemination of intelligence produced by the Intelligence Community and authority to levy analytic tasks on intelligence production organizations within the Intelligence Community, in consultation with the heads of the Intelligence Community elements concerned;

(15) May establish advisory groups for the purpose of obtaining advice from within the Intelligence Community to carry out the Director's responsibilities, to include Intelligence Community executive management committees composed of senior Intelligence Community leaders. Advisory groups shall consist of representatives from elements of the Intelligence Community, as designated by the Director, or other executive branch departments, agencies, and offices, as appropriate;

(16) Shall ensure the timely exploitation and dissemination of data gathered by national intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government elements, including military commands;

(17) Shall determine requirements and priorities for, and manage and direct the tasking, collection, analysis, production, and dissemination of, national intelligence by elements of the Intelligence Community, including approving requirements for collection and analysis and resolving conflicts in collection requirements and in the tasking of national collection assets of Intelligence Community elements (except when otherwise directed by the President or when the Secretary of Defense exercises collection tasking authority under plans and arrangements approved by the Secretary of Defense and the Director);

(18) May provide advisory tasking concerning collection and analysis of information or intelligence relevant to national intelligence or national security to departments, agencies, and establishments of the United States

Government that are not elements of the Intelligence Community; and shall establish procedures, in consultation with affected heads of departments or agencies and subject to approval by the Attorney General, to implement this authority and to monitor or evaluate the responsiveness of United States Government departments, agencies, and other establishments;

(19) Shall fulfill the responsibilities in section 1.3(b)(17) and (18) of this order, consistent with applicable law and with full consideration of the rights of United States persons, whether information is to be collected inside or outside the United States;

(20) Shall ensure, through appropriate policies and procedures, the deconfliction, coordination, and integration of all intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program. In accordance with these policies and procedures:

(A) The Director of the Federal Bureau of Investigation shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities inside the United States;

(B) The Director of the Central Intelligence Agency shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities outside the United States;

(C) All policies and procedures for the coordination of counterintelligence activities and the clandestine collection of foreign intelligence inside the United States shall be subject to the approval of the Attorney General; and

(D) All policies and procedures developed under this section shall be coordinated with the heads of affected departments and Intelligence Community elements;

(21) Shall, with the concurrence of the heads of affected departments and agencies, establish joint procedures to deconflict, coordinate, and synchronize intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program, with intelligence activities, activities that involve foreign intelligence and security services, or activities that involve the use of clandestine methods, conducted by other United States Government departments, agencies, and establishments;

(22) Shall, in coordination with the heads of departments containing elements of the Intelligence Community, develop procedures to govern major system acquisitions funded in whole or in majority part by the National Intelligence Program;

(23) Shall seek advice from the Secretary of State to ensure that the foreign policy implications of proposed intelligence activities are considered, and shall ensure, through appropriate policies and procedures, that intelligence activities are conducted in a manner consistent with the responsibilities pursuant to law and presidential direction of Chiefs of United States Missions; and

(24) Shall facilitate the use of Intelligence Community products by the Congress in a secure manner.

(c) The Director's exercise of authorities in the Act and this order shall not abrogate the statutory or other responsibilities of the heads of departments of the United States Government or the Director of the Central Intelligence Agency. Directives issued and actions taken by the Director in the exercise of the Director's authorities and responsibilities to integrate, coordinate, and make the Intelligence Community more effective in providing intelligence related to national security shall be implemented by the elements of the Intelligence Community, provided that any department head whose department contains an element of the Intelligence Community and who believes that a directive or action of the Director violates the requirements of section 1018 of the IRTPA or this subsection shall bring the issue to the attention

of the Director, the NSC, or the President for resolution in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments.

(d) Appointments to certain positions.

(1) The relevant department or bureau head shall provide recommendations and obtain the concurrence of the Director for the selection of: the Director of the National Security Agency, the Director of the National Reconnaissance Office, the Director of the National Geospatial-Intelligence Agency, the Under Secretary of Homeland Security for Intelligence and Analysis, the Assistant Secretary of State for Intelligence and Research, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury, and the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation. If the Director does not concur in the recommendation, the department head may not fill the vacancy or make the recommendation to the President, as the case may be. If the department head and the Director do not reach an agreement on the selection or recommendation, the Director and the department head concerned may advise the President directly of the Director's intention to withhold concurrence.

(2) The relevant department head shall consult with the Director before appointing an individual to fill a vacancy or recommending to the President an individual be nominated to fill a vacancy in any of the following positions: the Under Secretary of Defense for Intelligence; the Director of the Defense Intelligence Agency; uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps above the rank of Major General or Rear Admiral; the Assistant Commandant of the Coast Guard for Intelligence; and the Assistant Attorney General for National Security.

(e) Removal from certain positions.

(1) Except for the Director of the Central Intelligence Agency, whose removal the Director may recommend to the President, the Director and the relevant department head shall consult on the removal, or recommendation to the President for removal, as the case may be, of: the Director of the National Security Agency, the Director of the National Geospatial-Intelligence Agency, the Director of the Defense Intelligence Agency, the Under Secretary of Homeland Security for Intelligence and Analysis, the Assistant Secretary of State for Intelligence and Research, and the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury. If the Director and the department head do not agree on removal, or recommendation for removal, either may make a recommendation to the President for the removal of the individual.

(2) The Director and the relevant department or bureau head shall consult on the removal of: the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Director of the National Reconnaissance Office, the Assistant Commandant of the Coast Guard for Intelligence, and the Under Secretary of Defense for Intelligence. With respect to an individual appointed by a department head, the department head may remove the individual upon the request of the Director; if the department head chooses not to remove the individual, either the Director or the department head may advise the President of the department head's intention to retain the individual. In the case of the Under Secretary of Defense for Intelligence, the Secretary of Defense may recommend to the President either the removal or the retention of the individual. For uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps, the Director may make a recommendation for removal to the Secretary of Defense.

(3) Nothing in this subsection shall be construed to limit or otherwise affect the authority of the President to nominate, appoint, assign, or terminate the appointment or assignment of any individual, with or without a consultation, recommendation, or concurrence.

1.4 *The Intelligence Community.* Consistent with applicable Federal law and with the other provisions of this order, and under the leadership of the Director, as specified in such law and this order, the Intelligence Community shall:

(a) Collect and provide information needed by the President and, in the performance of executive functions, the Vice President, the NSC, the Homeland Security Council, the Chairman of the Joint Chiefs of Staff, senior military commanders, and other executive branch officials and, as appropriate, the Congress of the United States;

(b) In accordance with priorities set by the President, collect information concerning, and conduct activities to protect against, international terrorism, proliferation of weapons of mass destruction, intelligence activities directed against the United States, international criminal drug activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(c) Analyze, produce, and disseminate intelligence;

(d) Conduct administrative, technical, and other support activities within the United States and abroad necessary for the performance of authorized activities, to include providing services of common concern for the Intelligence Community as designated by the Director in accordance with this order;

(e) Conduct research, development, and procurement of technical systems and devices relating to authorized functions and missions or the provision of services of common concern for the Intelligence Community;

(f) Protect the security of intelligence related activities, information, installations, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Intelligence Community elements as are necessary;

(g) Take into account State, local, and tribal governments' and, as appropriate, private sector entities' information needs relating to national and homeland security;

(h) Deconflict, coordinate, and integrate all intelligence activities and other information gathering in accordance with section 1.3(b)(20) of this order; and

(i) Perform such other functions and duties related to intelligence activities as the President may direct.

1.5 *Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.* The heads of all departments and agencies shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Provide all programmatic and budgetary information necessary to support the Director in developing the National Intelligence Program;

(c) Coordinate development and implementation of intelligence systems and architectures and, as appropriate, operational systems and architectures of their departments, agencies, and other elements with the Director to respond to national intelligence requirements and all applicable information sharing and security guidelines, information privacy, and other legal requirements;

(d) Provide, to the maximum extent permitted by law, subject to the availability of appropriations and not inconsistent with the mission of the department or agency, such further support to the Director as the Director may request, after consultation with the head of the department or agency, for the performance of the Director's functions;

(e) Respond to advisory tasking from the Director under section 1.3(b)(18) of this order to the greatest extent possible, in accordance with applicable policies established by the head of the responding department or agency;

(f) Ensure that all elements within the department or agency comply with the provisions of Part 2 of this order, regardless of Intelligence Community affiliation, when performing foreign intelligence and counterintelligence functions;

(g) Deconflict, coordinate, and integrate all intelligence activities in accordance with section 1.3(b)(20), and intelligence and other activities in accordance with section 1.3(b)(21) of this order;

(h) Inform the Attorney General, either directly or through the Federal Bureau of Investigation, and the Director of clandestine collection of foreign intelligence and counterintelligence activities inside the United States not coordinated with the Federal Bureau of Investigation;

(i) Pursuant to arrangements developed by the head of the department or agency and the Director of the Central Intelligence Agency and approved by the Director, inform the Director and the Director of the Central Intelligence Agency, either directly or through his designee serving outside the United States, as appropriate, of clandestine collection of foreign intelligence collected through human sources or through human-enabled means outside the United States that has not been coordinated with the Central Intelligence Agency; and

(j) Inform the Secretary of Defense, either directly or through his designee, as appropriate, of clandestine collection of foreign intelligence outside the United States in a region of combat or contingency military operations designated by the Secretary of Defense, for purposes of this paragraph, after consultation with the Director of National Intelligence.

1.6 *Heads of Elements of the Intelligence Community.* The heads of elements of the Intelligence Community shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Report to the Attorney General possible violations of Federal criminal laws by employees and of specified Federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department, agency, or establishment concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(c) Report to the Intelligence Oversight Board, consistent with Executive Order 13462 of February 29, 2008, and provide copies of all such reports to the Director, concerning any intelligence activities of their elements that they have reason to believe may be unlawful or contrary to executive order or presidential directive;

(d) Protect intelligence and intelligence sources, methods, and activities from unauthorized disclosure in accordance with guidance from the Director;

(e) Facilitate, as appropriate, the sharing of information or intelligence, as directed by law or the President, to State, local, tribal, and private sector entities;

(f) Disseminate information or intelligence to foreign governments and international organizations under intelligence or counterintelligence arrangements or agreements established in accordance with section 1.3(b)(4) of this order;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of information or intelligence resulting from criminal drug intelligence activities abroad if they have intelligence responsibilities for foreign or domestic criminal drug production and trafficking; and

(h) Ensure that the inspectors general, general counsels, and agency officials responsible for privacy or civil liberties protection for their respective organizations have access to any information or intelligence necessary to perform their official duties.

1.7 *Intelligence Community Elements.* Each element of the Intelligence Community shall have the duties and responsibilities specified below, in addition to those specified by law or elsewhere in this order. Intelligence Community elements within executive departments shall serve the information and intelligence needs of their respective heads of departments and also shall operate as part of an integrated Intelligence Community, as provided in law or this order.

(a) THE CENTRAL INTELLIGENCE AGENCY. The Director of the Central Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence;

(2) Conduct counterintelligence activities without assuming or performing any internal security functions within the United States;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover and proprietary arrangements;

(4) Conduct covert action activities approved by the President. No agency except the Central Intelligence Agency (or the Armed Forces of the United States in time of war declared by the Congress or during any period covered by a report from the President to the Congress consistent with the War Powers Resolution, Public Law 93-148) may conduct any covert action activity unless the President determines that another agency is more likely to achieve a particular objective;

(5) Conduct foreign intelligence liaison relationships with intelligence or security services of foreign governments or international organizations consistent with section 1.3(b)(4) of this order;

(6) Under the direction and guidance of the Director, and in accordance with section 1.3(b)(4) of this order, coordinate the implementation of intelligence and counterintelligence relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments or international organizations; and

(7) Perform such other functions and duties related to intelligence as the Director may direct.

(b) THE DEFENSE INTELLIGENCE AGENCY. The Director of the Defense Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions;

(2) Collect, analyze, produce, or, through tasking and coordination, provide defense and defense-related intelligence for the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, combatant commanders, other Defense components, and non-Defense agencies;

(3) Conduct counterintelligence activities;

(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover and proprietary arrangements;

(5) Conduct foreign defense intelligence liaison relationships and defense intelligence exchange programs with foreign defense establishments, intelligence or security services of foreign governments, and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order;

(6) Manage and coordinate all matters related to the Defense Attaché system; and

(7) Provide foreign intelligence and counterintelligence staff support as directed by the Secretary of Defense.

(c) THE NATIONAL SECURITY AGENCY. The Director of the National Security Agency shall:

(1) Collect (including through clandestine means), process, analyze, produce, and disseminate signals intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Establish and operate an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense, after coordination with the Director;

(3) Control signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements;

(5) Provide signals intelligence support for national and departmental requirements and for the conduct of military operations;

(6) Act as the National Manager for National Security Systems as established in law and policy, and in this capacity be responsible to the Secretary of Defense and to the Director;

(7) Prescribe, consistent with section 102A(g) of the Act, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling, and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the National Security Agency, and exercise the necessary supervisory control to ensure compliance with the regulations; and

(8) Conduct foreign cryptologic liaison relationships in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(d) THE NATIONAL RECONNAISSANCE OFFICE. The Director of the National Reconnaissance Office shall:

(1) Be responsible for research and development, acquisition, launch, deployment, and operation of overhead systems and related data processing facilities to collect intelligence and information to support national and departmental missions and other United States Government needs; and

(2) Conduct foreign liaison relationships relating to the above missions, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(e) THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY. The Director of the National Geospatial-Intelligence Agency shall:

(1) Collect, process, analyze, produce, and disseminate geospatial intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Provide geospatial intelligence support for national and departmental requirements and for the conduct of military operations;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements; and

(4) Conduct foreign geospatial intelligence liaison relationships, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(f) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS. The Commanders and heads of the intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps shall:

(1) Collect (including through clandestine means), produce, analyze, and disseminate defense and defense-related intelligence and counterintelligence to support departmental requirements, and, as appropriate, national requirements;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct military intelligence liaison relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(g) INTELLIGENCE ELEMENTS OF THE FEDERAL BUREAU OF INVESTIGATION. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the intelligence elements of the Federal Bureau of Investigation shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions, in accordance with procedural guidelines approved by the Attorney General, after consultation with the Director;

(2) Conduct counterintelligence activities; and

(3) Conduct foreign intelligence and counterintelligence liaison relationships with intelligence, security, and law enforcement services of foreign governments or international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(h) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE COAST GUARD. The Commandant of the Coast Guard shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence including defense and defense-related information and intelligence to support national and departmental missions;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct foreign intelligence liaison relationships and intelligence exchange programs with foreign intelligence services, security services or international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and, when operating as part of the Department of Defense, 1.10(i) of this order.

(i) THE BUREAU OF INTELLIGENCE AND RESEARCH, DEPARTMENT OF STATE; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY; THE OFFICE OF NATIONAL SECURITY INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY; AND THE OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE, DEPARTMENT OF ENERGY. The heads of the Bureau of Intelligence and

Research, Department of State; the Office of Intelligence and Analysis, Department of the Treasury; the Office of National Security Intelligence, Drug Enforcement Administration; the Office of Intelligence and Analysis, Department of Homeland Security; and the Office of Intelligence and Counterintelligence, Department of Energy shall:

(1) Collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support national and departmental missions; and

(2) Conduct and participate in analytic or information exchanges with foreign partners and international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(j) THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. The Director shall collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support the missions of the Office of the Director of National Intelligence, including the National Counterterrorism Center, and to support other national missions.

1.8 *The Department of State.* In addition to the authorities exercised by the Bureau of Intelligence and Research under sections 1.4 and 1.7(i) of this order, the Secretary of State shall:

(a) Collect (overtly or through publicly available sources) information relevant to United States foreign policy and national security concerns;

(b) Disseminate, to the maximum extent possible, reports received from United States diplomatic and consular posts;

(c) Transmit reporting requirements and advisory taskings of the Intelligence Community to the Chiefs of United States Missions abroad; and

(d) Support Chiefs of United States Missions in discharging their responsibilities pursuant to law and presidential direction.

1.9 *The Department of the Treasury.* In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of the Treasury under sections 1.4 and 1.7(i) of this order the Secretary of the Treasury shall collect (overtly or through publicly available sources) foreign financial information and, in consultation with the Department of State, foreign economic information.

1.10 *The Department of Defense.* The Secretary of Defense shall:

(a) Collect (including through clandestine means), analyze, produce, and disseminate information and intelligence and be responsive to collection tasking and advisory tasking by the Director;

(b) Collect (including through clandestine means), analyze, produce, and disseminate defense and defense-related intelligence and counterintelligence, as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental, and tactical intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components and coordinate counterintelligence activities in accordance with section 1.3(b)(20) and (21) of this order;

(e) Act, in coordination with the Director, as the executive agent of the United States Government for signals intelligence activities;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director, within the United States Government;

(g) Carry out or contract for research, development, and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain defense intelligence relationships and defense intelligence exchange programs with selected cooperative foreign defense establishments, intelligence or security services of foreign governments, and international organizations, and ensure that such relationships and programs are in accordance with sections 1.3(b)(4), 1.3(b)(21) and 1.7(a)(6) of this order;

(j) Conduct such administrative and technical support activities within and outside the United States as are necessary to provide for cover and proprietary arrangements, to perform the functions described in sections (a) though (i) above, and to support the Intelligence Community elements of the Department of Defense; and

(k) Use the Intelligence Community elements within the Department of Defense identified in section 1.7(b) through (f) and, when the Coast Guard is operating as part of the Department of Defense, (h) above to carry out the Secretary of Defense's responsibilities assigned in this section or other departments, agencies, or offices within the Department of Defense, as appropriate, to conduct the intelligence missions and responsibilities assigned to the Secretary of Defense.

1.11 *The Department of Homeland Security.* In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of Homeland Security under sections 1.4 and 1.7(i) of this order, the Secretary of Homeland Security shall conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President or the Vice President of the United States, the Executive Office of the President, and, as authorized by the Secretary of Homeland Security or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against use of such surveillance equipment, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of Homeland Security and the Attorney General.

1.12 *The Department of Energy.* In addition to the authorities exercised by the Office of Intelligence and Counterintelligence of the Department of Energy under sections 1.4 and 1.7(i) of this order, the Secretary of Energy shall:

(a) Provide expert scientific, technical, analytic, and research capabilities to other agencies within the Intelligence Community, as appropriate;

(b) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(c) Participate with the Department of State in overtly collecting information with respect to foreign energy matters.

1.13 *The Federal Bureau of Investigation.* In addition to the authorities exercised by the intelligence elements of the Federal Bureau of Investigation of the Department of Justice under sections 1.4 and 1.7(g) of this order and under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the Federal Bureau of Investigation shall provide technical assistance, within or outside the United States, to foreign intelligence and law enforcement services, consistent with section 1.3(b)(20) and (21) of this order, as may be necessary to support national or departmental missions.

Sec. 3. Part 2 of Executive Order 12333, as amended, is further amended by:

(a) In section 2.1, striking the first sentence and inserting in lieu thereof: ''Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to informed decisionmaking in the areas of national security, national defense, and foreign relations.'';

(b) In section 2.1, inserting a comma after ''innovative'';

(c) In section 2.2, inserting ‘‘, the spread of weapons of mass destruction,‘‘ after ‘‘international terrorist activities’’ in the first sentence;

(d) In the first sentence of section 2.3, striking ‘‘Agencies within the’’ and inserting in lieu thereof ‘‘Elements of the’’, inserting a comma after ‘‘retain’’, striking ‘‘agency’’ and inserting in lieu thereof ‘‘Intelligence Community element’’, and inserting ‘‘or by the head of a department containing such element’’ after ‘‘concerned’’;

(e) In section 2.3, inserting ‘‘, after consultation with the Director’’ preceding the period at the end of the first sentence;

(f) In section 2.3, inserting a comma after ‘‘retention’’ in the second sentence;

(g) In section 2.3(b), striking ‘‘FBI’’ and inserting in lieu thereof ‘‘Federal Bureau of Investigation (FBI)’’;

(h) In section 2.3(b), striking ‘‘agencies’’ and inserting in lieu thereof ‘‘elements’’ each time it appears;

(i) In section 2.3(c), striking ‘‘narcotics’’ and inserting in lieu thereof ‘‘drug,’’;

(j) In section 2.3(d), inserting a comma after ‘‘victims’’;

(k) In section 2.3(e), striking ‘‘sources or methods’’ and inserting in lieu thereof ‘‘sources, methods, and activities’’;

(l) In section 2.3(e), striking ‘‘agencies’’ and inserting in lieu thereof ‘‘elements’’ and striking ‘‘agency’’ and inserting in lieu thereof ‘‘element’’;

(m) In section 2.3(g), inserting a comma after ‘‘physical’’;

(n) In section 2.3(h), striking ‘‘and’’;

(o) In section 2.3(i), striking ‘‘federal’’ and inserting in lieu thereof ‘‘Federal’’ and inserting a comma after ‘‘local’’;

(p) In the last sentence of section 2.3, striking ‘‘agencies within’’ and inserting in lieu thereof ‘‘elements of’’, striking ‘‘, other than information derived from signals intelligence,’’, striking ‘‘agency’’ and inserting in lieu thereof ‘‘element’’ in both instances and inserting immediately before the period: ‘‘, except that information derived from signals intelligence may only be disseminated or made available to Intelligence Community elements in accordance with procedures established by the Director in coordination with the Secretary of Defense and approved by the Attorney General’’;

(q) In the first three sentences of section 2.4, striking ‘‘Agencies within’’ and inserting in lieu thereof ‘‘Elements of’’; striking ‘‘Agencies’’ and inserting in lieu thereof ’’Elements of the Intelligence Community’’; and striking ‘‘agency’’ and inserting in lieu thereof ‘‘Intelligence Community element concerned or the head of a department containing such element’’;

(r) In the second sentence of section 2.4, inserting ‘‘, after consultation with the Director‘‘ after ‘‘Attorney General’’;

(s) In section 2.4(a), striking ‘‘CIA’’ and inserting in lieu thereof ‘‘Central Intelligence Agency (CIA)’’;

(t) In section 2.4(b) and (c), striking ‘‘agencies’’ and inserting in lieu thereof ‘‘elements of the Intelligence Community’’.

(u) In section 2.4(b)(2), striking the period and inserting in lieu thereof a semicolon;

(v) In section 2.4(c)(1), striking ‘‘agency’’ and inserting in lieu thereof ‘‘element’’;

(w) In section 2.4(c)(2), striking the period and inserting in lieu thereof ‘‘; and’’;

(x) In section 2.4(d) striking ‘‘than’’ and inserting in lieu thereof ‘‘that’’;

(y) In section 2.5, striking the final sentence and inserting in lieu thereof ‘‘The authority delegated pursuant to this paragraph, including the authority

to approve the use of electronic surveillance as defined in the Foreign Intelligence Surveillance Act of 1978, as amended, shall be exercised in accordance with that Act.'';

(z) In section 2.6, inserting ''and other Civil'' before ''Authorities'' in the caption and striking ''Agencies within'' and inserting in lieu thereof ''Elements of'';

(aa) In section 2.6(a), inserting a comma after ''property'' and striking ''agency'' and inserting in lieu thereof ''element'';

(bb) In section 2.6(c), striking ''General Counsel'' and inserting in lieu thereof ''general counsel'', and striking ''agency'' and inserting in lieu thereof ''element or department'' in the second sentence;

(cc) In section 2.6(d), inserting ''or other civil'' before ''authorities'';

(dd) In section 2.7, striking ''Agencies within'' and inserting in lieu thereof ''Elements of'';

(ee) In section 2.9, striking ''agencies within'' and inserting in lieu thereof ''elements of'', and striking ''agency within'' and inserting in lieu thereof ''element of'' the first time it appears and ''Intelligence Community element'' the second and third times it appears;

(ff) In section 2.9, striking ''his'' and inserting in lieu thereof ''such person's'';

(gg) In section 2.9, inserting ''or the head of a department containing such element'' before ''and approved by the Attorney General'', and inserting '', after consultation with the Director'' after ''the Attorney General'';

(hh) In section 2.10, striking ''agency within'' and inserting in lieu thereof ''element of'', and inserting a comma after ''contract for'';

(ii) In section 2.12, striking ''agency'' and inserting in lieu thereof ''element''; and

(jj) At the end of Part 2, inserting a new section 2.13 as follows: ''2.13 Limitation on Covert Action. No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.''.

Sec. 4. Part 3 of Executive Order 12333, as amended, is further amended by:

(a) In section 3.1, striking ''of Central Intelligence''; inserting ''elements,'' after ''agencies,''; and striking ''special'' and inserting in lieu thereof ''covert action'';

(b) Striking section 3.2 and inserting in lieu thereof: ''*3.2 Implementation.* The President, supported by the NSC, and the Director shall issue such appropriate directives, procedures, and guidance as are necessary to implement this order. Heads of elements within the Intelligence Community shall issue appropriate procedures and supplementary directives consistent with this order. No procedures to implement Part 2 of this order shall be issued without the Attorney General's approval, after consultation with the Director. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an element in the Intelligence Community (or the head of the department containing such element) other than the FBI. In instances where the element head or department head and the Attorney General are unable to reach agreements on other than constitutional or other legal grounds, the Attorney General, the head of department concerned, or the Director shall refer the matter to the NSC.'';

(c) Striking section 3.3 and inserting in lieu thereof: '' *3.3 Procedures.* The activities herein authorized that require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order 12333. New procedures, as required by Executive Order 12333, as further amended, shall be established as expeditiously as possible. All new procedures promulgated pursuant to Executive Order 12333, as amended, shall be made available to the Select Committee on Intelligence

of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.'';

(d) Inserting after section 3.3 the following new section: '' *3.4 References and Transition.* References to ''Senior Officials of the Intelligence Community'' or ''SOICs'' in executive orders or other Presidential guidance, shall be deemed references to the heads of elements in the Intelligence Community, unless the President otherwise directs; references in Intelligence Community or Intelligence Community element policies or guidance, shall be deemed to be references to the heads of elements of the Intelligence Community, unless the President or the Director otherwise directs.'';

(e) Striking ''3.4 *Definitions*'' and inserting in lieu thereof ''3.5 Definitions'';

(f) Amending the definition of '' *Counterintelligence*'' in section 3.5(a), as renumbered, by inserting ''identify, deceive, exploit, disrupt, or'' before ''protect against espionage'', inserting ''or their agents,'' after ''persons,'', inserting ''organizations or activities'' after terrorist, and striking ''activities, but not including personnel, physical, document or communications security programs'';

(g) Striking section 3.5(b)-(h), as renumbered, and inserting in lieu thereof:

''(b) *Covert action* means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include:

(1) Activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) Traditional diplomatic or military activities or routine support to such activities;

(3) Traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) Activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(c) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(d) *Employee* means a person employed by, assigned or detailed to, or acting for an element within the Intelligence Community.

(e) *Foreign intelligence* means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(f) *Intelligence* includes foreign intelligence and counterintelligence.

(g) *Intelligence activities* means all activities that elements of the Intelligence Community are authorized to conduct pursuant to this order.

(h) *Intelligence Community* and *elements of the Intelligence Community* refers to:

(1) The Office of the Director of National Intelligence;
(2) The Central Intelligence Agency;
(3) The National Security Agency;
(4) The Defense Intelligence Agency;
(5) The National Geospatial-Intelligence Agency;
(6) The National Reconnaissance Office;
(7) The other offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(8) The intelligence and counterintelligence elements of the Army, the Navy, the Air Force, and the Marine Corps;
(9) The intelligence elements of the Federal Bureau of Investigation;
(10) The Office of National Security Intelligence of the Drug Enforcement Administration;
(11) The Office of Intelligence and Counterintelligence of the Department of Energy;
(12) The Bureau of Intelligence and Research of the Department of State;
(13) The Office of Intelligence and Analysis of the Department of the Treasury;
(14) The Office of Intelligence and Analysis of the Department of Homeland Security;
(15) The intelligence and counterintelligence elements of the Coast Guard; and
(16) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director and the head of the department or agency concerned, as an element of the Intelligence Community.

(i) *National Intelligence* and *Intelligence Related to National Security* means all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that pertains, as determined consistent with any guidance issued by the President, or that is determined for the purpose of access to information by the Director in accordance with section 1.3(a)(1) of this order, to pertain to more than one United States Government agency; and that involves threats to the United States, its people, property, or interests; the development, proliferation, or use of weapons of mass destruction; or any other matter bearing on United States national or homeland security.

(j) *The National Intelligence Program* means all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the Director and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.''.

(h) Redesignating the definition of '' *United States Person*'' as section 3.5(k) and therein striking ''agency'' and inserting in lieu thereof ''element'';

(i) Striking section 3.5;

(j) In section 3.6, striking ''Order No. 12036 of January 24, 1978, as amended, entitled ''United States Intelligence Activities,'' is'' and inserting in lieu thereof ''Orders 13354 and 13355 of August 27, 2004, are'', and inserting before the period ''; and paragraphs 1.3(b)(9) and (10) of Part 1 supersede provisions within Executive Order 12958, as amended, to the extent such provisions in Executive Order 12958, as amended, are inconsistent with this Order''; and

(k) Inserting the following new section 3.7 to read as follows:

''3.7 *General Provisions.*

(a) Consistent with section 1.3(c) of this order, nothing in this order shall be construed to impair or otherwise affect:

(1) Authority granted by law to a department or agency, or the head thereof; or

(2) Functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any

right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.''.

Sec. 5. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by any party at law or in equity against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
July 30, 2008

[FR Doc. E8–17940
Filed 8–1–08; 8:45 am]
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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.

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