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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[UT–042–FOR; Docket ID OSM–2008–0016]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment with certain exceptions.

SUMMARY: We are approving, with certain exceptions, a proposed amendment to the Utah regulatory program (the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Utah proposed to revise provisions of the Utah Code Annotated pertaining to small operator assistance and permit applications. Utah intended to revise its program to be consistent with SMCRA and to make editorial changes.

DATES: *Effective Date:* August 27, 2008.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Chief, Denver Field Division; Telephone: (303) 844–1400, extension 1424; Internet address: *jfulton@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Submission of the Proposed Amendment
III. OSM Findings
IV. Summary and Disposition of Comments
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VI. Procedural Determinations

I. Background on the Utah Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act* * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You also can find later actions concerning Utah's program and program amendments at 30 CFR 944.15 and 944.30.

II. Submission of the Proposed Amendment

By letter dated October 22, 2002, Utah sent us an amendment to its program (UT–042–FOR, Administrative Record number UT–1171) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah sent the amendment in response to a June 19, 1997, letter (Administrative Record number UT–1093) that we sent to the State in accordance with 30 CFR 732.17(c).

Utah previously addressed most of the topics included in our June 19, 1997, letter in amendment UT–038–FOR, which we approved in the April 24, 2001 **Federal Register** (66 FR 20600). However, some of the topics described in our letter changed the small operator assistance program (SOAP) by raising the limit on coal production from 100,000 tons to 300,000 tons and describing changes in the type of assistance available to eligible operators under that program. Our letter noted that those changes might require changes in State statutes. In Utah's case, it must change the SOAP provisions in the Utah Code Annotated (UCA, or Utah's Code or statute) before it can change its implementing rules. The amendment that is the subject of this final rule proposed to make the requisite SOAP changes in Utah's Code. At its own initiative, the State proposed additional changes throughout the same section of its Code that involved other topics pertaining to permit applications to clarify wording and recodify certain parts. The clarifications consisted of rewording and restructuring sentences and phrases and changing punctuation.

Specific changes Utah proposed to make to UCA 40–10–10 in this amendment include: Clarifying 40–10–10–(1), which describes application fees; designating new 40–10–10(2)(a) and clarifying it and (2)(a)(ii), (iii), (iv) and (vi), which generally describe how permit applications and reclamation plans are to be submitted to the State and describe ownership and right of entry information to be included with permit applications and reclamation plans; clarifying 40–10–10(2)(b), (c), and (d) and recodifying subordinate parts of those subsections, which describe the maps and information about legal right of entry, probable hydrologic consequences and other hydrology information, and characteristics of the coal to be mined that must be included in permit applications; removing existing 40–10–10(3) and replacing it with new 40–10–10(3)(a), (a)(i) through (a)(vi), (b), and (c), all of which pertain to assistance available to eligible small operators to gather and pay for certain baseline and survey data and limitations on that assistance; clarifying and recodifying 40–10–10(4)(a) and (b), which address availability of information pertaining to the coal; clarifying 40–10–10(5), which describes how to file a permit application; clarifying and recodifying 40–10–10(6)(a), (b), (b)(i) and (ii), which describe the proof and type of insurance required to accompany a permit application; and clarifying 40–10–10(7), which requires a blasting plan to be part of a permit application.

We announced receipt of the proposed amendment in the January 6, 2003, **Federal Register** (68 FR 521). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record number UT–1178). We did not hold a public hearing or meeting because nobody requested one. The public comment period ended on February 5, 2003. We received comments from one Federal agency.

We identified two concerns during our review of the amendment. One involved the proposed change at recodified UCA 40–10–10(2)(d)(ii) that would authorize Utah's Division of Oil, Gas and Mining (DOGM) to waive considerably more application requirements than may be waived under the counterpart Federal provision at

Section 507(b)(15) of SMCRA. We discuss this topic further in part III.B.3 of this final rule. The second concern involved Utah's proposed removal of the phrase ''for public inspection'' from UCA 40–10–10(5), which requires permit applications to be filed at certain public offices in the counties where mining is to occur. Part III.B.5 of this final rule contains our discussion of this topic. We notified Utah of these concerns by letter dated February 21, 2003 (Administrative Record number UT–1180).

Utah responded in a letter dated August 31, 2007, by sending a new formal amendment to us (Administrative Record number UT–1196). The new amendment included proposed revisions to the Utah Code that addressed the two concerns we raised on our February 21, 2003, letter, and that would make additional changes. We decided to process that new formal amendment to the Utah Code as amendment UT–044–FOR. We made the changes Utah proposed in amendment UT–044–FOR available for public comment and published our final decision on those changes to the Utah Code in the August 12, 2008 **Federal Register** (73 FR 46804). Therefore, no further action is required in this final rule.

III. OSM's Findings

Following are the findings we made concerning amendment UT–042–FOR under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment with certain exceptions as described below.

A. Minor Revisions to Utah's Statute

Utah proposed minor editorial changes in wording, punctuation, grammatical, and codification to the following previously-approved statutory provisions. Differences between the following proposed State statutory provisions and the SMCRA provisions (which are listed in parentheses) are minor:

UCA 40–10–10(1), editorial changes to the requirement to include a fee with each application for a surface coal mining and reclamation permit, and the limitation on how much that fee may cost (Section 507(a) of SMCRA);

UCA 40–10–10(4), editorial changes to the requirement to make certain information about coal seams, core and soil samples, and other information available to any person with an interest that may be adversely affected, changes to the description of information that is to be kept confidential, and codifying new subsections (4)(a) and (b) (Section 507(b)(17) of SMCRA);

UCA 40–10–10(6), editorial changes to the requirement for permit applications to include liability insurance certificates, changes to the description of required insurance, and codifying new subsections 40–10–10(6)(a), (6)(b), and (6)(b)(i) and (ii) (Section 507(f) of SMCRA); and

UCA 40–10–10(7), editorial changes to the requirement for permit applications to include a blasting plan (Section 507(g) of SMCRA).

Because these changes are minor and contain wording that is the same as or similar to the corresponding provisions of SMCRA, we find that they are no less stringent than, and are in accordance with, the corresponding provisions of SMCRA.

B. Revisions to Utah's Statute That Are Not the Same as the Corresponding Provisions of SMCRA

1. Property, Ownership, and Related Information Required in Permit Applications (UCA 40–10–10(2)(a))

Utah proposed to make a number of editorial changes at UCA 40–10–10(2) and (2)(a). Most of the editorial changes consist of adding punctuation, word changes, and rephrasing sentences and result in language that is the same as or similar to the corresponding provisions of SMCRA. The State also proposed to codify new subsection (a) to improve the section's paragraph structure.

In addition, Utah's proposed changes at UCA 40–10–10(2)(a)(ii) would replace the term ''property'' with the term ''estate'' and rephrase the provision to refer directly to the surface and mineral estates to be mined. Existing UCA 40–10–10(2)(a)(ii) requires permit applications to include information describing ''* * * every legal owner of record of the property (surface and mineral) to be mined.'' In a telephone conversation of December 26, 2002, DOGM explained that use of the term ''estate'' is more appropriate (than use of the term ''property'' is) to address situations in which ownership of surface land and subsurface minerals in areas to be mined is not the same (Administrative Record number UT–1177).

We considered comments suggesting a similar change when we proposed defining the term ''property to be mined'' at 30 CFR 701.5 (48 FR 44344; September 28, 1983). Commenters asserted ''that the term 'estate to be mined' would be more correct legally * * *'' and would eliminate confusion with the phrase ''on and underneath lands'' that we proposed as part of the definition at that time. We decided to retain the term ''property to be mined'' because it is based on the wording of section 507(b)(1) of SMCRA and is a generally understood and recognized term. At the same time, however, we recognized that section 507(b)(1) requires the permit information to list ''the legal owners of record of the property to be mined, including the surface and mineral rights'' and that the definition at 30 CFR 701.5 ''requires inclusion of the estates within the permit area.''

We also recognize, however, that our standard for evaluating Utah's amendment does not require that the State's provisions mirror SMCRA and the Federal regulations. State alternatives to the Federal provisions are acceptable if they are ''in accordance with'' the requirements of SMCRA and are ''consistent with'' the Federal regulations, as provided in 30 CFR 732.15(a) (46 FR 53376; October 28, 1981). As defined at 30 CFR 730.5(a), ''consistent with'' and ''in accordance with'' mean—

> [w]ith regard to the Act [SMCRA], the State laws and regulations are no less stringent than, meet the minimum requirements of and include all applicable provisions of the Act.

As defined by Black's Law Dictionary, ''estate'' means ''the amount, degree, nature, and quality of a person's interest in land or other property.'' Surface land and subsurface minerals of the same parcel constitute real property but might be the property of different owners as separate, or split, ''estates.'' By distinguishing between the surface and mineral estates, Utah's proposed provision more clearly recognizes that a person's interest in property to be mined might include one or the other estate and not necessarily both. The State's proposed use of the term ''estate'' in place of ''property'' is consistent with the practice of split surface land and subsurface mineral ownership often encountered in Utah and elsewhere. In that context, the proposed change makes the provision more specific in terms of requiring information in a permit application that identifies the amount, degree, nature, and quality of a person's interest in the property to be mined.

The Federal counterpart to proposed UCA 40–10–10(2)(a)(ii) is section 507(b)(1)(B) of SMCRA. As noted previously, that provision requires a permit application to contain information identifying—

> (B) every legal owner of record of the property (surface and mineral), to be mined;

The counterpart Federal regulations at 30 CFR 778.13 and 13(a) require the permit application to include

information identifying each legal or equitable owner(s) of record of the surface and mineral for ''the property to be mined.'' As defined at 30 CFR 701.5, the term ''property to be mined'' means—

[b]oth the surface and mineral estates within the permit area and the area covered by underground workings.

As defined at Utah Administrative Rule R645–100–200, ''property to be mined'' means—

[b]oth the surface estates and mineral estates within the permit area and the area covered by underground workings.

The phrase ''surface and mineral estate'' as proposed at UCA 40–10–10(2)(a)(ii) is the basis for the definitions of ''property to be mined'' in Utah's Administrative Rule and the Federal regulations. The term ''property to be mined'' as defined in the Utah Administrative Rules and the Federal regulations has one meaning: ''Both the surface and mineral estates within the permit area and the area covered by underground workings * * *.'' Conversely, and logically, then, the phrase ''both the surface and mineral estates within the permit area and the area covered by underground workings'' means ''property to be mined.'' If ''property to be mined'' means ''both the surface and mineral estates * * *,'' then changing the phrase to ''surface and mineral estates to be mined'' makes the phrase more specific as proposed at UCA 40–10–10(2)(a)(ii) while creating no substantive difference between it and the defined term ''property to be mined.'' In that context, we consider the proposed term ''surface and mineral estate to be mined'' to be interchangeable with ''property to be mined'' in Utah's Code and synonymous with the term ''property (surface and mineral), to be mined'' in SMCRA.

Utah's proposed change from ''property (surface and mineral) to be mined'' to ''surface and mineral estate to be mined'' provides more specificity while still requiring the same information for the same areas covered by the counterpart provisions in the Utah Administrative Rule, SMCRA, and the Federal regulations. Moreover, the phrase is consistent with the definition of ''property to be mined'' in the Utah Administrative Rule and the Federal regulations. As proposed with the changes described above, we find proposed UCA 40–10–10(2)(a)(ii) is in accordance with and therefore no less stringent than SMCRA and can be approved.

2. Permit Application Requirements for Information Describing the Land To Be Affected and the Applicant's Legal Right To Enter and Begin Surface Mining Operations, and a Determination of Probable Hydrologic Consequences of Mining and Reclamation (UCA 40–10–10(2)(b) and (c))

The State proposes several editorial changes to UCA 40–10–10(2)(b) and (c). At UCA 40–10–10(2)(b), it proposes editorial changes to the description of certain information to be included in permit applications, including maps or plans of land to be affected and a statement of right of entry and to mine, editorial changes to a prohibition on adjudicating property title disputes, and codifying new subsections 40–10–10(2)(b)(i), (2)(b)(i)(A) and (B), and 2(b)(ii) (Section 507(b)(9) of SMCRA). One editorial change includes the addition of the phrase ''[a] permit application shall include * * *'' as subsection (2)(b)(i) to introduce to the discussion of information requirements that follow in recodified subsections (2)(b)(i)(A) through (B)(ii).

At UCA 40–10–10(2)(c), Utah proposes to make editorial changes to the description of certain other information to be included in permit applications concerning probable hydrologic consequences (PHC) of mining and the quantity and quality of surface and groundwater, to requirements for collecting hydrologic data and submitting PHC determinations, and a restriction against permit approval pending inclusion of this information in an application, and codifying new subsections 40–10–10(2)(c)(i), (2)(c)(i)(A), (B), and (C), and (2)(c)(ii) and (iii) (Section 507(b)(11) of SMCRA). An editorial change to this section includes the addition of the phrase ''[a] permit application shall also include * * *'' to introduce the discussion of information requirements that follow in recodified subsections 2(c)(i)(A) through (C)(iii).

The editorial changes to UCA 40–10–10(2)(b) and (c) are intended to make Utah's Code easier to read and understand. Most of those changes are minor and contain wording that is the same as or similar to the corresponding provisions of SMCRA. As a result, we find that they are no less stringent than, and are in accordance with, the corresponding provisions of SMCRA.

Though intended to make the Code easier to read and understand, the proposed introductory phrases at recodified UCA 40–10–10(2)(b)(i) and 2(c)(i) described above may appear to limit the information requirements to permit applications. Existing UCA 40–10–10(2), which includes existing (2)(b) and (c), describes information that must be included ''in the permit application and the reclamation plan submitted as part of a permit application * * *.'' The proposed recodified version of UCA 40–10–10(2)(a) retains the reference to the reclamation plan. However, the proposed introductory phrases at UCA 40–10–10(2)(b)(i) and (2)(c)(i) refer to information that must be included in a permit application and do not reference a reclamation plan.

Despite the omission of references to a reclamation plan in the proposed introductory phrases at proposed UCA 40–10–10(2)(b)(i) and (2)(c)(i), we believe the revised wording is not limiting. ''Permit'' is defined at UCA 40–10–3(11) as—

a permit to conduct surface coal mining and reclamation operations issued by the division.

UCA 40–10–3(18) defines ''reclamation plan'' as—

A plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 40–10–10.

UCA 40–10–10 applies to—

Permit application fee—Submission of application and reclamation plan—Determinations, test, and samplings—Filing of application—Insurance required—Blasting plan.

Further, existing UCA 40–10–10(2) (and proposed recodified UCA 40–10–10(2)(a)) describe information submitted with the ''permit application and the reclamation plan submitted as part of a permit application* * *.''

UCA 40–10–11 sets forth requirements the State must follow in approving permit applications. UCA 40–10–11(2)(b) prohibits Utah from approving a permit application unless the—

application affirmatively demonstrates and the division finds in writing on the basis of the information set forth in the application or from information otherwise available * * * that * * * (b) the applicant has demonstrated that the reclamation requirements under this chapter can be accomplished under the reclamation plan contained in the permit application * * *.

Sections 507(b)(9) and (b)(11) of SMCRA are the Federal counterparts to proposed UCA 40–10–10(b)(i) through (ii) and (c)(i) through (iii). Section 507(b) of SMCRA, which includes subsections (b)(9) and (b)(11), describes information that must be submitted in the ''permit application'' and does not refer to a reclamation plan. The provisions that follow in Section 508 of SMCRA, however, describe information

to be included in reclamation plans that must be—

> submitted as part of a permit application * * * in the degree of detail necessary to demonstrate that reclamation required by the State * * * can be accomplished.

Our review of Utah's Code, as summarized above, shows that the proposed introductory phrases will not limit information required in permit applications. A reclamation plan remains a required part of the application for a permit to conduct surface coal mining and reclamation operations in Utah. An applicant for a permit to conduct surface coal mining and reclamation operations still must submit to the State an application demonstrating that the applicant can accomplish the reclamation requirements of Chapter 10 of Title 40 of the Utah Code Annotated. Though UCA 40–10–10 combines in one section the State's counterparts to Sections 507 and 508 of SMCRA and is worded somewhat differently, we interpret proposed UCA 40–10–10(2)(b) and (c) and their subordinate parts to require the same type of information in a permit application as is required in counterpart sections 507 and 508 of SMCRA. We therefore find that the proposed changes at UCA 40–10–10(2)(b) and (c) are not inconsistent with and are no less stringent than the provisions of SMCRA and can be approved.

3. Permit Application Requirements for Information About Test Borings, Core Samplings, and Chemical and Physical Characteristics of the Coal Seam, Overburden, and Strata Underlying the Coal, and Provision for Waiving the Requirement for This Information; UCA 40–10–10(2)(D)(i) and (ii)

Utah proposes to make a number of editorial changes at UCA 40–10–10(2)(d). Existing UCA 40–10–10(2)(d) describes information required in permit applications that describes results of test borings, core samplings, physical and chemical characteristics of the coal seam, overburden, and of the strata under the coal. It also authorizes DOGM to waive the requirement for this information if a written finding concludes it is unnecessary. Utah proposes to codify these provisions as new subsections (2)(d)(i) and (2)(d)(i)(A) through (F) and to codify the waiver provision as new subsection (2)(d)(ii). Most of the editorial changes are minor. However, a change Utah proposed in this amendment to the waiver provision would make it less stringent than SMCRA.

Existing (2)(d) allows DOGM to waive the requirements ''* * * of this Subsection * * *'' if it finds, in writing, that they are unnecessary. We interpret the existing waiver's reference to ''this Subsection'' to mean existing subsection (d), which is limited to the information described above and is consistent with the scope of the waiver in the counterpart Federal provision at Section 507(b)(15) of SMCRA.

As proposed at UCA 40–10–10(2)(d)(ii) in amendment UT–042–FOR, however, Utah would revise its provision by allowing DOGM to waive the application requirements of ''* * * this Subsection (2) * * *'' upon finding, in writing, that they are unnecessary. By specifically referring to ''Subsection (2)'' of UCA 40–10–10, the Division may waive much more information than is described under existing subsection (2)(d) or proposed subsections (2)(d)(i) and (2)(d)(i)(A) through (F). Entire subsection (2) describes required application information about ownership, maps and plans, hydrology and probable hydrologic consequences, as well as the test borings, core samplings, and the physical and chemical characteristics of the coal, the overburden, and the stratum underlying the coal. That includes considerably more information than may be waived under Section 507(b)(15) of SMCRA, which says the provisions of ''this paragraph (15) may be waived'' if the regulatory authority determines, in writing, that they are unnecessary. Referenced ''paragraph (15)'' of Section 507(b) of SMCRA is limited to descriptions of test borings and core samplings and the physical and chemical characteristics of the coal, the overburden, and the stratum underlying the coal.

For the reason described above, we found proposed subsection 40–10–10(2)(d)(ii) is less stringent than the counterpart Federal provision at Section 507(b)(15) of SMCRA. We notified Utah of our finding in a letter dated February 21, 2003 (Administrative Record number UT–1180). Utah responded in a letter dated August 31, 2007, by sending a new formal amendment to us (Administrative Record number UT–1196). The new amendment included proposed revisions to the Utah Code that addressed the concern we raised on our February 21, 2003, letter and other proposed changes. We decided to process that new formal amendment to the Utah Code as amendment UT–044–FOR and published it in the August 12, 2008 **Federal Register** (73 FR 46804). As a result, no further action is required, on the changes Utah proposed at UCA 40–10–10(2)(d) through (2)(d)(ii) in amendment UT–042–FOR.

4. Eligibility Criteria for Small Operator Assistance Program; Payment for SOAP Services; SOAP Services Provided; Providers of SOAP Services; and Repayment of Services Upon Ineligibility; UCA 40–10–10(3)(a), (b), and (c)

Utah proposed to remove the existing provisions for small operator assistance at UCA 40–10–10(3), replace them with new provisions, and reorganize and codify the entire subsection as UCA 40–10–10(3)(a), (3)(a)(i) through (vi), (3)(b), and (3)(c). These are the statutory changes Utah must make before it may change its rules in response to items X.A.2, 3, and 4 of the June 19, 1997, letter we sent to the State under 30 CFR 732.17.

Proposed UCA 40–10–10(3)(a) is similar to counterpart Section 507(c)(1) and (c)(1)(A) through (F) of SMCRA in all ways but one. It establishes an upper limit on total annual coal production of 300,000 tons from all sources as the basic criterion for operators to meet to be eligible for small operator assistance. It also provides that the Division will pay for the cost of assistance upon an eligible operator's written request. Unlike SMCRA, however, it proposes to make DOGM's payment for assistance contingent on the availability of funds under SMCRA.

In the regulatory program Utah submitted to us in 1980 for review and Secretarial approval, the State conditioned its payment of costs for assistance to small operators '' * * * upon receipt of funding from the Office of Surface Mining'' (Administrative Record numbers UT–1 and UT–2). We concluded that the contingency made Utah's Code inconsistent with, and less stringent than, SMCRA because it ''lessens the requirement that all small operators be provided this service * * *'' (45 FR 70481, 70484; October 24, 1980). As a result, we disapproved the proposed contingency in Utah's original program submittal and required the State to amend its Code to remove it as one condition of the Secretary's approval (46 FR 5899, 5900; January 21, 1981). Once Utah removed the proposed contingency, we removed that condition of program approval effective June 22, 1982 (47 FR 26827; 26828).

We implemented the ''Procedures and Criteria for Approval or Disapproval of State Programs and Small Operator Assistance'' in the January 18, 1983, final rule **Federal Register** (48 FR 2266). In the preamble to that final rule, we explained that ''* * * States will have the option of requesting grant assistance for funds appropriated for the SOAP * * *'' while noting that ''* * * there

are a variety of mechanisms through which the State may provide the required section 507(c) [of SMCRA] analyses and statements * * *'' without being required to ''* * * participate in the SOAP grants program.'' We also said ''[c]osts for providing SOAP services using alternative mechanisms would be eligible for funding under the State's * * * grant as outlined in 30 CFR Part 735 * * *.'' Further, we noted that, ''[u]nder § 795.11, as proposed, a State intending to administer a small operators assistance program under a grant from OSM could submit a grant application for funding of the program under the procedures of 30 CFR Part 735 * * *'' (48 FR 2266; 2266 and 2267).

At the same time, we characterized 30 CFR Part 795 as an *elective* means of complying with the requirements of Section 507(c) of SMCRA (*Id.* at 2267, 2268). In the discussion of 30 CFR 795.2, we explained that it—

> * * * does not require a separate organization within the structure of the regulatory authority to provide services to a limited number of small operators, but only requires that the mechanism to provide services be in place * * * (*Id.* at 2267).

Finally, in the preamble discussion of 30 CFR 795.9, we said—

> * * * new § 795.9(a) will provide that to the extent possible with *available* funds the program administrator shall select and pay a qualified laboratory to make the determination and statement referenced in Section 507(c) of the Act for eligible operators who request assistance. *The regulatory authority through the program administrator shall not be required by OSM to provide funds for the purpose of § 795.9(a) beyond those funds authorized by Section 401(b)(1) of the Act and appropriated by Congress * * ** (emphasis added).

The regulation at 30 CFR 795.9(a) referenced above provides for paying the costs of services described at sections 795.9(b)(1) through (6), which are the regulatory counterparts to Sections 507(c)(1)(A) through (F) of SMCRA. These SMCRA provisions, in turn, are the Federal counterparts to sections 40–10–10(3)(a)(i) through (vi) of Utah's Code as proposed in this amendment.

Proposed UCA 40–10–10(3)(a), (b), and (c) will provide Utah with an updated mechanism to provide assistance to eligible small operators. Under those proposed provisions, payment for services is contingent on the availability of funds under SMCRA consistent with our continuing position that we will not require DOGM ''* * * to provide funds for the purpose of § 795.9(a) beyond those funds authorized by Section 401(b)(1) of the Act and appropriated by Congress * * *.''

Our review found that cross-references in proposed UCA 40–10–10(3)(a)(i), (ii), and (iii) are consistent with the counterpart cross-references in SMCRA.

Proposed UCA 40–10–10(3)(b) would require those activities described at (3)(a)(i) through (iv) to be performed by a qualified laboratory or other entity. It is worded consistent with the counterpart provision at Section 507(c)(1) of SMCRA.

Finally, proposed UCA 40–10–10(3)(c) requires an operator who received assistance under SOAP to reimburse DOGM if the Division finds that the operator's production exceeded 300,000 tons in the 12-month period immediately following issuance of that operator's mining permit. It is worded consistent with the counterpart provision at Section 507(h) of SMCRA.

For the reasons described above, we find that proposed UCA 40–10–10(3)(a), (3)(a)(i) through (iv), (3)(b), and (3)(c) are in accordance with and no less stringent than the counterpart provisions of SMCRA.

5. Requirement To File Permit Applications With the County Clerk or Other Public Office; UCA 40–10–10(5)

Existing UCA 40–10–10(5) requires mine permit applications to be filed with the county clerk for public inspection, or at some other public office approved by DOGM, in the county where mining is to occur. The requirement excludes information about the coal seam. Utah proposes to change this section to make minor editorial changes in wording and punctuation. It also proposes to remove the phrase ''for public inspection'' from the filing requirement.

Removing the phrase ''for public inspection'' appears to remove the provision's purpose. Absent the requirement to make an application available for public inspection, there is no other reason stated in this provision for requiring it to be filed with the county clerk or in another public office. The existing approved provision directs the applicant to file a copy of the application specifically so the public can inspect it at a public office in the county where mining is to occur.

We notified Utah of our concern in a letter dated February 21, 2003 (Administrative Record number UT–1180). Utah responded in a letter dated August 31, 2007, by sending a new formal amendment to us (Administrative Record number UT–1196). That amendment included proposed revisions to the Utah Code that addressed the concern we raised on our February 21, 2003, letter. We decided to process that new formal amendment to the Utah Code as amendment UT–044–FOR and published it in the August 12, 2008 **Federal Register** (73 FR 46804). As a result, no further action is required on the changes Utah proposed at UCA 40–10–10(5) in amendment UT–042–FOR.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record numbers UT–1173 and UT–1178) but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and Section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Utah program (Administrative Record number UT–1173).

The Salt Lake City, Utah, office of the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), responded to our request in an e-mail message dated November 29, 2002 (Administrative Record number UT–1175). NRCS said it reviewed the formal amendment and had no comments on it.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Utah proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, we requested comments from the EPA under 30 CFR 732.17(h)(11)(i) (Administrative Record number UT–1173). EPA responded in a telephone conversation on December 2, 2002, that it had no comments on the amendment (Administrative Record number UT–1176).

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On October 31, 2002, we requested comments on Utah's

amendment (Administrative Record number UT–1173), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve, with the following exceptions, Utah's October 22, 2002 amendment:

We defer a decision until we complete our review of amendment UT–044–FOR, as discussed in finding number III.B.3, on proposed changes to UCA 40–10–10(2)(d) through (2)(d)(ii), concerning information requirements for permit applications, including information about test borings, core samplings, and chemical and physical characteristics of the coal seam, overburden, and strata underlying the coal, and a provision for waiving the requirement for that information; and

We also defer a decision until we complete our review of amendment UT–044–FOR, as discussed in finding number III.B.5, on proposed changes to UCA 40–10–10(5), concerning the requirement to file a copy of a permit application for public inspection with the county clerk or an appropriate public office.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 944, which codify decisions concerning the Utah program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of OSM's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the Secretary approves the State's program. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program be submitted to OSM for review as a program amendment. The Federal regulation at 30 CFR 732.17(g) prohibits any changes to approved State programs that are not approved by OSM. In our oversight of the Utah program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Utah to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under Sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. The changes that are the subject of this rule are limited to aspects of the small operator assistance program and mine permit applications applicable to coal mining and reclamation on non-Indian lands within the jurisdiction of the State of Utah. The rule does not involve or affect Indian tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. In

making the determination as to whether this rule would have a significant economic impact, the Department relied on the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million;

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based on the fact that the State submittal, which is the subject of this rule, is based on counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or Indian tribal governments or the private sector of $100 million or more in any given year. This determination is based on the fact that the State submittal, which is the subject of this rule, is based on counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 17, 2008.

Allen D. Klein,

Director, Western Region.

■ For the reasons set out in the preamble, 30 CFR 944 is amended as set forth below:

PART 944—UTAH

■ 1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 944.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 944.15 Approval of Utah regulatory program amendments

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
October 22, 2002	August 27, 2008	Utah Code Annotated 40–10–10(1), (2)(a)(i) through (vi), (2)(b)(i), (i)(A) and (i)(B), and (ii), (2)(c)(i), (c)(i)(A) through (C), and (2)(c)(iii), (3)(a), (b), and (c), and (4)(a) and (b). Decision deferred on UCA 40–10–10(2)(d) through (2)(d)(ii) and 40–10–10(5).

[FR Doc. E8–19840 Filed 8–26–08; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2008–0832]

RIN 1625–AA08

Special Local Regulations for Marine Events; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard proposes to temporarily change the enforcement period for special local regulations during the ''Cambridge Offshore Challenge'', a marine event held annually on the waters of Choptank River near Cambridge, Maryland. Special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Choptank River during the event.

DATES: This rule is effective from 11:30 a.m. September 20, 2008 until 5:30 p.m. September 21, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0832 and are available online at *www.regulations.gov*. They are also available for inspection or copying at two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704 between 10 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, (757) 398–6204. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to minimize potential danger to the public during the event. The necessary information regarding the change of date for this annual recurring marine event was not provided with sufficient time to publish an NPRM. The potential dangers posed by a high speed power boat race conducted on the waterway with other vessel traffic makes special local regulations necessary to provide for the safety of participants, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

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

Background and Purpose

Annually, the Chesapeake Bay Powerboat Association sponsors the ''Cambridge Offshore Challenge'', on the waters of the Choptank River at Cambridge, Maryland. The event consists of approximately 100 offshore powerboats conducting high-speed competitive races between the Route 50 Bridge and Oystershell Point, MD. A fleet of spectator vessels is anticipated. The regulation at 33 CFR 100.501 is effective annually for the Cambridge Offshore Challenge marine event. The table to § 100.501, event No. 27 establishes the enforcement date for this marine event. This regulation proposes to temporarily change the enforcement date from ''September—4th or last Saturday and Sunday'' to the third Saturday and Sunday in September, holding the marine event on September 20 and 21, 2008. The Chesapeake Bay Powerboat Association who is the sponsor for this event intends to hold this event annually; however, they have changed the date of the event for 2008 so that it is outside the scope of the existing enforcement period. Due to the need for vessel control during the power boat races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Rule

The Coast Guard will temporarily suspend the regulations at 33 CFR 100.501 by changing the date of enforcement in the table to § 100.501 to reflect the event will be conducted in 2008 on the third Saturday and Sunday in September, September 20 and 21, 2008. This change is needed to accommodate the sponsor's schedule. The special local regulations will be enforced from 11:30 a.m. to 5:30 p.m. on September 20 and 21, 2008, and will restrict general navigation in the regulated area during the marine event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the effective period. The regulated area is needed to control vessel traffic during the event to enhance the safety of participants and transiting vessels.

In addition to notice in the **Federal Register**, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, and marine information broadcasts so mariners can adjust their plans accordingly.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

Although this rule prevents traffic from transiting a portion of the Choptank River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

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

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a 6-hour period. Vessel traffic will be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have

determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. We have made a determination under the Instruction that this action is not likely to have a significant effect on the human environment.

Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. In § 100.501 revise line No. 27 in Table to § 100.501 to read as follows:

§ 100.501–T05–0832 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

COAST GUARD SECTOR BALTIMORE—COTP ZONE

No.	Date	Event	Sponsor	Location
*	*	*	*	* * *
27.	September 20 and 21, 2008.	Cambridge Offshore Challenge.	Chesapeake Bay Powerboat Association.	All waters of the Choptank River, from shoreline to shoreline, bounded to the west by the Route 50 Bridge and bounded to the east by a line drawn along longitude 076° W, between Goose Point, MD and Oystershell Point, MD.
*	*	*	*	* * *

Dated: August 18, 2008.

Fred M. Rosa, Jr.,

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

[FR Doc. E8–19894 Filed 8–26–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–1069; FRL–8377–8]

Cyprodinil; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on tomato; tomatillo; tomato, paste; avocado; sapote, black; canistel; sapote, mamey; mango; papaya; sapodilla; star apple; parsley, leaves; parsley, dried leaves; vegetable, leaves of root and tuber, group 2; vegetable, root, except sugarbeet, subgroup 1B; lemon; lime; citrus, dried pulp; citrus, oil; kiwifruit; onion, bulb; onion, green; strawberries; vegetable, cucurbit, group 9; and meat byproducts of cattle, goats, horses and sheep. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 27, 2008. Objections and requests for hearings must be received on or before October 27, 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–2007–1069. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *madden.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- 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 to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–1069 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before October 27, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–1069, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of January 23, 2008 (73 FR 3964) (FRL–8345–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E7235) by Interregional, Research Project Number 4 (IR–4), 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.532 be

amended by establishing tolerances for residues of the fungicide cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on the food commodities tomato at 0.40 parts per million (ppm); tomatillo at 0.40 ppm; tomato, paste at 1.0 ppm; avocado at 1.2 ppm; sapote, black at 1.2 ppm; canistel at 1.2 ppm; sapote, mamey at 1.2 ppm; mango at 1.2 ppm; papaya at 1.2 ppm; sapodilla at 1.2 ppm; star apple at 1.2 ppm; herbs subgroup19A, fresh at 25 ppm; herbs subgroup 19A, dried at 170 ppm; vegetable, root and tuber, group, leaves at 9.0 ppm; vegetable, root, except sugarbeet subgroup at 0.60 ppm; lemon at 0.6 ppm; lime at 0.6 ppm; kiwifruit at 1.8 ppm; onion, dry bulb at 0.50 ppm; onion, green at 1.2 ppm; strawberry at 7.0 ppm; and cucurbits at 0.40 ppm. That notice referenced a summary of the petition prepared by IR-4, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA is revising some of the items as proposed in this Unit. The reason for these changes is explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine on tomato; tomatillo; tomato, paste; avocado; sapote, black; canistel; sapote, mamey; mango; papaya; sapodilla; star apple; parsley, leaves; parsley, dried leaves; vegetable, leaves of root and tuber, group 2; vegetable, root, except sugarbeet, subgroup 1B; lemon; lime; citrus, dried pulp; citrus, oil; kiwifruit; onion, bulb; onion, green; strawberries; vegetable, cucurbit, group 9; and meat byproducts of cattle, goats, horses and sheep. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Cyprodinil has low acute toxicity via the oral, dermal, and inhalation routes. Cyprodinil is mildly irritating to the eyes and negligibly irritating to the skin. It is a dermal sensitizer. The major target organs of cyprodinil are the liver in both rats and mice and the kidney in rats. Liver effects were consistent among male and female rats and mice in both subchronic and chronic studies and typically included increased liver weights along with increases in serum clinical chemistry parameters associated with adverse effects on liver function (i.e., increased cholesterol and phospholipid levels). Microscopic lesions in rats and mice included hepatocyte hypertrophy and hepatocellular necrosis. In the kidneys, adverse effects were manifested as chronic tubular lesions and chronic kidney inflamation following subchronic exposure of male rats. Chronically, cyprodinil caused increased kidney weights and progressive nephropathy in male rats. Chronic effects in dogs were limited to decreased body-weight gain, decreased food consumption and decreased food efficiency. Liver toxicity was not seen in the dog. The hematopoietic system also appeared to be a target of cyprodinil, causing mild anemia in rats exposed subchronically. There was no evidence of carcinogenic potential in either the rat chronic toxicity/carcinogenicity or mouse carcinogenicity studies and no concern for mutagenicity. There was no evidence of increased susceptibility in the developmental rat or rabbit study following *in utero* exposure or in the 2-generation reproduction study following prenatal or postnatal exposure. No clinical signs of toxicity suggestive of neurobehavioral alterations nor evidence of neuropathological effects were observed in the available oral-toxicity studies. There was also no evidence of a neurodevelopmental effect in the rat or rabbit developmental toxicity studies or in the rat 2-generation reproductive-toxicity study.

Specific information on the studies received and the nature of the adverse effects caused by cyprodinil as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Cyprodinil Human Health Risk Assessment for the uses in/on tomato, avocado, herbs, root vegetables, leaves of root and tuber vegetables, lemon, lime, cucurbits, kiwifruit, green and dry bulb onions, and strawberries*, page 16 in docket ID number EPA–HQ–OPP–2007–1069.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which NOAEL in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which the LOAEL of concern are identified or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for cyprodinil used for human risk assessment can be found at *http://www.regulations.gov* in document *Cyprodinil Human Health Risk Assessment for the uses in/on tomato, avocado, herbs, root vegetables, leaves of root and tuber vegetables, lemon, lime, cucurbits, kiwifruit, green and dry bulb onions, and strawberries*, page 22 in docket ID number EPA–HQ–OPP–2007–1069.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to cyprodinil, EPA considered exposure under the petitioned-for tolerances as well as all existing cyprodinil tolerances in (40 CFR 180.532). EPA assessed dietary exposures from cyprodinil in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used tolerance-level residues, DEEM default processing factors and assumed 100 percent crop treated (PCT) for all existing and proposed commodities.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA used tolerance level residues, DEEM default processing factors, and assumed 100 PCT for all existing and proposed commodities.

iii. *Cancer* An aggregate exposure assessment for the purpose of assessing cancer risk was not performed because cyprodinil has been classified as ''not likely to be carcinogenic to humans.''

iv. *Anticipated residue and PCT information*. EPA did not use anticipated residue and/or PCT information in the dietary assessment for cyprodinil. Tolerance level residues and 100 PCT were assumed for all existing and proposed food commodities.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for cyprodinil in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of cyprodinil. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

For surface water the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) Tier 2 aquatic models were used, and for ground water, the Tier 1 aquatic model Screening Concentration in Ground Water (SCI–GROW) was utilized. For the assessment, maximum application rates and minimum intervals between applications were used. The Agency has concluded that the transformation product CGA–249287 of cyprodinil is of potential concern for drinking water sources. Therefore, estimated drinking water concentrations (EDWCs) of CGA–249287 were also simulated using the PRZM/EXAMS and SCI–GROW models. For surface water, this degradate was modeled individually, as opposed to the use of the total residue approach due to the fact that only one degradate was modeled and sufficient information was available for the modeling.

Based on the Tier 2 PRZM/EXAMS and the Tier 1 SCI–GROW models, the EDWCs of cyprodinil and its transformation product CGA–249287 for acute exposures are estimated to be 34.56 parts per billion (ppb) for surface water and 0.108 ppb for ground water. For chronic exposures for non-cancer assessments the concentrations are estimated to be 20.05 ppb for surface water and 0.108 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 34.56 ppb was used to assess the contribution to drinking water.

For chronic dietary risk assessment, the water concentration of value 20.05 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.*, for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyprodinil is not registered for any specific use patterns that would result in residential exposure.

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

EPA has not found cyprodinil to share a common mechanism of toxicity with any other substances, and cyprodinil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that cyprodinil does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(c) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety (MOS) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different MOS will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There are no concerns or residual uncertainties for prenatal and/or postnatal exposure.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for cyprodinil is complete.

ii. There is no indication that cyprodinil is a neurotoxic chemical and

there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

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

iv. There are no residual uncertainties identified in the exposure databases. EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to cyprodinil in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by cyprodinil.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to cyprodinil will occupy 4% of the aPAD for females 13–49 years old, the only population group of concern.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyprodinil from food and water will utilize 67% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for cyprodinil.

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

Cyprodinil is not registered for any use patterns that would result in residential exposure. Therefore, the short-term aggregate risk is the sum of the risk from exposure to cyprodinil through food and water and will not be greater than the chronic aggregate risk.

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

Cyprodinil is not registered for any use patterns that would result in intermediate-term residential exposure. Therefore, the intermediate-term aggregate risk is the sum of the risk from exposure to cyprodinil through food and water, which has already been addressed, and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population*. Based on the lack of evidence of carcinogenicity in mice and rats at doses that were judged to be adequate to assess the carcinogenic potential, cyprodinil was classified as ''not likely to be carcinogenic to humans.'' Therefore, cyprodinil is not expected to pose a cancer risk to humans.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography with ultraviolet detector (HPLC/UV)) is available to enforce the tolerance expression on plant commodities. In addition, a high performance liquid chromatography with mass spectrometry (HPLC/MS) method (Method No. GRM010.01A) is available for determining residues of cyprodinil and its metabolite CGA–304075 (free+conjugated) in livestock commodities. These methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no established or proposed Canadian or Mexican MRLs for cyprodinil on any of the plant commodities of interest in these petitions. There are Codex MRLs for tomato, bulb onion, cucurbit, and summer squash. Tomato has a proposed tolerance of 0.45 ppm and a Codex MRL of 0.5 ppm, therefore no change in the tolerance is necessary for harmonization purposes. The Codex MRLs for bulb onion at 0.3 ppm (vs 4.0 ppm for green onion and 0.60 ppm for dry bulb onion), cucurbit at 0.2 ppm (vs 0.70 ppm for cucurbit vegetables), and summer squash at 0.2 ppm (vs 1.0 ppm for head and stem Brassica, 5A) were established based on application levels from 0.21 to 0.26x the domestic rate. Harmonization of U.S. tolerances on these commodities is not possible at this time.

Codex MRLs have been established for livestock commodities, and these MRLs are set at the method LOQ. For both the Canadian and Codex MRLs, the regulated residues include cyprodinil per se. As the U.S. definition for cyprodinil residues in livestock commodities is different than those established for Canada and Codex, harmonization of U.S. tolerances on livestock commodities is not possible at this time.

C. Response to Comments

EPA received one comment to the Notice of Filing that had a general objection to ''this product being allowed on food.'' The comment contained no scientific data or other substantive evidence to rebut this conclusion or the Agency's finding that there is a reasonable certainty that no harm will result from aggregate exposure to cyprodinil from the establishment of these tolerances. The Agency has received these same or similar comments from this commenter on numerous previous occasions. Refer to **Federal Register** 70 FR 37686 (June 30, 2005), 70 FR 1354 (January 7, 2005), and 69 FR 63096 (October 29, 2004) for the Agency's previous responses to these objections.

D. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting the petitions, EPA determined that separate tolerances are needed for fresh parsley at 35 ppm; dried parsley at 170 ppm; citrus, dry pulp at 8.0 ppm; citrus, oil at 340 ppm; and meat byproducts of cattle, goats, horses and sheep at 0.02 ppm. EPA is establishing those tolerances in this action. In addition, EPA revised the tolerances for tomato from 0.40 ppm to 0.45 ppm; tomatillo from 0.40 ppm to 0.45 ppm; herb subgroup 19A fresh from 25 ppm to 3 ppm and re-naming herb subgroup 19A fresh, except parsley; herb subgroup 19A dried from 170 ppm to 15 ppm and re-naming herb subgroup 19A, dried, except parsley; leaves of root and tuber vegetables from 9.0 ppm to 10 ppm; root vegetables, except sugar

beet subgroup from 0.60 ppm to 0.75 ppm; cucurbits from 0.40 to 0.70 ppm. EPA revised these tolerance levels based on analyses of the residue field trial data using the Agency's Tolerance Spreadsheet in accordance with the Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data.

V. Conclusion

Therefore, tolerances are established for residues of cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on the food commodities tomato at 0.45 ppm; tomatillo at 0.45 ppm; tomato, paste at 1.0 ppm; avocado at 1.2 ppm; sapote, black at 1.2 ppm; canistel at 1.2 ppm; sapote, mamey at 1.2 ppm; mango at 1.2 ppm; papaya at 1.2 ppm; sapodilla at 1.2 ppm; star apple at 1.2 ppm; parsley, leaves at 35 ppm; parsley, dried leaves at 170 ppm; vegetable, leaves of root and tuber, group 2 at 10 ppm; vegetable, root, except sugarbeet, subgroup 1B at 0.75 ppm; lemon at 0.60 ppm; lime at 0.60 ppm; citrus, dried pulp at 8.0 ppm; citrus, oil at 340 ppm; kiwifruit at 1.8 ppm; onion, bulb at 0.60 ppm; onion, green at 4.0 ppm; strawberry at 5.0 ppm; vegetable, cucurbit, group 9 at 0.70 ppm; and meat byproducts of cattle, goats, horses and sheep at 0.02 ppm.

Also, the following entries in the table in paragraph (a)(1) are changed to read as follows: ''herb subgroup 19A, fresh'' is amended to ''herb subgroup 19A, fresh, except parsley''; ''herb subgroup 19A, dried'' is amended to ''herb subgroup 19 A, dried, except parsley''..

Further, the following entry is removed from the table in paragraph (a)(1): ''Carrot'' because of the establishment of the vegetable, root tolerance by this action.

And lastly, the following entries are removed from the table in paragraph (a)(2): ''Onion, bulb'' ''onion, green'', and ''strawberry'' because permanent tolerances are being established by this action.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 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.

■ 2. Section 180.532 is amended as follows:

i. Paragraph (a)(2) is removed.

ii. Paragraph (a)(1) is redesignated as paragraph (a).

iii. Newly designated paragraph (a) is amended in the table by removing the commodity ''Carrot''; by revising the commodities ''Herb subgroup 19A, dried'' and ''Herb subgroup 19A, fresh'' to read ''Herb, subgroup 19A, dried, except parsley'' and ''Herb, subgroup 19A, fresh, except parsley'' respectively; and by alphabetically adding commodities.

The amendments read as follows:

§ 180.532 Cyprodinil; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Avocado	1.2
* * * * *	
Canistel	1.2
* * * * *	
Cattle, meat byproducts	0.02
Citrus, dried pulp	8.0
Citrus, oil	340
* * * * *	
Goat, meat byproducts	0.02
* * * * *	
Horse, meat byproducts	0.02
* * * * *	
Kiwifruit	1.8
* * * * *	
Lemon	0.60
Lime	0.60
* * * * *	
Mango	1.2
Onion, bulb	0.60
Onion, green	4.0
Papaya	1.2
Parsley, dried leaves	170
Parsley, leaves	35
* * * * *	
Sapodilla	1.2
Sapote, black	1.2
Sapote, mamey	1.2
Sheep, meat byproducts	0.02
* * * * *	
Star apple	1.2
Strawberry	5.0
Tomatillo	0.45
Tomato	0.45
Tomato, paste	1.0
* * * * *	
Vegetable, cucurbit, group 9	0.70
Vegetable, leaves of root and tuber, group 2	10
Vegetable, root, except sugarbeet, subgroup 1B	0.75
* * * * *	

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[FR Doc. E8–19747 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–1020; FRL–8378–5]

Bacillus subtilis GB03; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the microbial pesticide *Bacillus subtilis* GB03 in or on all raw agricultural commodities when applied in accordance with good agricultural practices. Growth Products Ltd. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an amendment of the existing exemption from the requirement of a tolerance to cover use in or on all agricultural commodities and remove the regulatory text specifying ''when applied as a seed treatment.'' This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus subtilis* GB03 in or on all raw agricultural commodities.

DATES: This regulation is effective August 27, 2008. Objections and requests for hearings must be received on or before October 27, 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–2007–1020. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket identification (ID) number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8077; e-mail address: *cerrelli.susanne@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–1020 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 27, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–1020, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of November 2, 2007 (72 FR 62237) (FRL–8153–8), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F7236) by Growth Products Ltd., P.O. Box 1259, White Plains, NY 10602. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Bacillus subtilis* GB03. This notice included a summary of the petition prepared by the petitioner Growth Products Ltd. One comment was received in response to this notice expressing opposition to expanding the number of toxic poisons and expressing dissatisfaction with the level of safety EPA provides Americans. Pursuant to its authority under the FFDCA, EPA conducted a comprehensive assessment of *Bacillus subtilis* GB03, including a review of an acute oral toxicity/pathogenicity study in the rat, an acute dermal toxicity study in the rabbit, an acute pulmonary toxicity/pathogenicity study in the rat, an acute intravenous toxicity/pathogenicity study in the rat and a primary eye irritation study in the rabbit. EPA review of these studies indicated that the active ingredient was not toxic to test animals when administered via the oral, dermal, intravenous or pulmonary routes of exposure. The active ingredient was not infective or pathogenic to test animals when administered via the oral, pulmonary and intravenous routes. No reports of hypersensitivity have been recorded from personnel working with this organism. Based on these data, the Agency has concluded that there is a reasonable certainty that no harm will result from dietary exposure to residues of *Bacillus subtilis* GB03 in or on food and feed. Thus, under the standard in FFDCA section 408(c)2, an exemption from the requirement for a tolerance is appropriate.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.... '' Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues '' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of

pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Toxicological data on the active ingredient has been previously accepted to support the current exemption from the requirement of a tolerance for residues (for seed treatment of agricultural commodities) and various registrations by the manufacturer Bayer CropScience (formerly Gustafson LLC). Studies on the active ingredient include the following:

An acceptable acute oral toxicity/pathogenicity study performed on rats (MRID 41812302) demonstrated the lack of mammalian toxicity at high levels of exposure to *Bacillus subtilis* GB03. In this study *Bacillus subtilis* GB03 was neither toxic nor infective to rats given an oral dose of 1.9 x 10^8 CFU/animal.

An acceptable acute dermal toxicity/pathogenicity study on rabbits (MRID 41812303) showed no abnormalities in body weight gain during the study. Desquamation, erythema and edema were observed in the majority of treated rabbits by day 2, with all signs diminishing by day 15. No abnormalities were noted in the rabbits at necropsy. *Bacillus subtilis* GB03 was not considered toxic when a single 2g (3.6 x 10^9 CFU)/animal dose was administered dermally. The dermal toxicity study resulted in a classification of toxicity category III.

An acceptable acute injection toxicity/pathogenicity study on rats (MRID 41812305) demonstrated that *Bacillus subtilis* GB03 was not infective, pathogenic or toxic for rats when dosed intravenously with approximately 1.8 x 10^7 CFU of the test material. Although the organism was detected in every organ tested, a distinct clearance pattern was demonstrated. No abnormalities were noted during necropsy. Based on the submitted data, the test material was not infectious, pathogenic or toxic to rats.

An acceptable primary eye irritation in rabbits study (MRID 41812306) demonstrated that *Bacillus subtilis* GB03 produced a slight to severe ocular irritation when a single 0.1 g ocular dose was administered. Ocular irritation dissipated 7 days post dosing. The primary eye irritation study resulted in a classification of toxicity category III for this strain of *B. subtilis*.

An acceptable acute pulmonary toxicity/pathogenicity in rats study (MRID 41812304) demonstrated that *Bacillus subtilis* GB03 was neither toxic, pathogenic nor infective to rats when dosed intratracheally with approximately 2.84 x 10^8 CFU of the test material.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Dietary exposure to the microbial pesticide is likely to occur. However the lack of acute oral toxicity/pathogenicity and the ubiquitous nature of the microbe support the establishment of an exemption from the requirement of a tolerance for *Bacillus subtilis* GB03.

1. *Food*. Dietary exposure to the microbe is expected to be minimal. The risk posed to adults, infants and children is minimal because of the low acute oral toxicity/pathogenicity potential of the microbial pesticide. In addition, standard practices of washing, peeling, cooking or processing fruits and vegetables reduces residues of *Bacillus subtilis* GB03 and further minimizes dietary exposure.

2. *Drinking water exposure*. Exposure to humans from residues of *Bacillus subtilis* GB03 in consumed drinking water would be unlikely. The proposed and existing use sites of *Bacillus subtilis* do not include direct application to aquatic environments. Potential exposure to surface water would be negligible. The intended use of *Bacillus subtilis* GB03 is treatment of growing plants and crops for the purposes of disease control. The risk of the microorganism passing through the soil to ground water is minimal to unlikely. Additionally, the bacteria would not tolerate the conditions water is subjected to in a drinking water treatment facility (including: chlorination, pH adjustments, and/or filtration). If oral exposure should occur through drinking water, the Agency concludes that such exposure would present insignificant risk due to the lack of acute oral toxicity/pathogenicity and the ubiquitous nature of the microbe.

B. Other Non-Occupational Exposure

The use sites for these products include residential garden sites, as well as agricultural sites. *Bacillus subtilis* is ubiquitous in the environment. Based on evaluations of the Tier I acute toxicity tests, the Agency believes that the potential aggregate non-occupational risk derived from dermal and inhalation exposure through the application of *Bacillus subtilis* GB03 is well below the currently tested microbial safety levels.

V. Cumulative Effects

No mechanism of toxicity in mammals has been identified for *Bacillus subtilis* GB03. Therefore, no cumulative effect with other related organisms is anticipated. Because the available data demonstrate a low toxicity/pathogenicity potential of the active ingredient, adverse dietary effects are unlikely.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) as amended by the Food Quality Protection Act (FQPA) of 1996, provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) also provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children.

Based on the acute toxicity information discussed in Unit III, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to the United States population, including infants and children, to residues of *Bacillus subtilis* GB03. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data available on *Bacillus subtilis* GB03 demonstrate a low toxicity/pathogenicity potential. *Bacillus subtilis* is not a human pathogen and has not been implicated in human disease, but

has been isolated as a rare contaminant from human infections. Thus, there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply. Further, the considerations of consumption patterns, special susceptibility, and cumulative effects do not apply to pesticides without a demonstrated significant adverse effect.

VII. Other Considerations

A. Endocrine Disruptors

The Agency has no information to suggest that *Bacillus subtilis* GB03 has an effect on the endocrine system. No specific tests have been conducted with *Bacillus subtilis* GB03 to determine such effects. However, the submitted toxicity/pathogenicity studies in rodents indicated that following several routes of exposure, the immune system is still intact and able to process and clear the active ingredient. *Bacillus subtilis* GB03 is a ubiquitous organism in the environment and there have been no reports of the organism affecting endocrine systems. Therefore, it is unlikely that this organism would have estrogenic or endocrine effects and it is practically non-toxic to mammals.

B. Analytical Method

The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *Bacillus subtilis* GB03.

C. Codex Maximum Residue Level

No Codex maximum residue level exists for *Bacillus subtilis* GB03.

VIII. Conclusions

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of the *Bacillus subtilis* GB03 in or on all food and feed commodities. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, no toxicity or pathogenicity to mammals has been observed in test animals.

IX. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 14, 2008

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.1111 is revised to read as follows:

§ 180.1111 Bacillus subtilis GB03; exemption from the requirement of a tolerance.

The biofungicide *Bacillus subtilis* GB03 is exempted from the requirement of a tolerance in or on all raw agricultural commodities when used in accordance with good agricultural practices.

[FR Doc. E8–19860 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0987; FRL–8376–4]

Fenbuconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of the fungicide fenbuconazole, alpha–[2–(4–

chlorophenyl)– ethyl]–alpha–phenyl–3–(1H–1,2,4–triazole)– 1–propanenitrile, and its metabolites RH–9129, cis–5–(4–chlorophenyl)– dihydro–3–phenyl–3–(1H–1,2,4– triazole–1–ylmethyl)–2–3 H–furanone, and RH–9130, trans–5–(4–chlorophenyl)dihydro–3–phenyl–3–(1H–1,2,4–triazole–1–ylmethyl)–2–3 H–furanone, expressed as fenbuconazole in or on pepper (7E7256). The Interregional Research Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) on behalf of the registrant, Dow AgroSciences LLC.

DATES: This regulation is effective August 27, 2008. Objections and requests for hearings must be received on or before October 27, 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–2007–0987. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- 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 to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0987 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before October 27, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0987 by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of January 23, 2008 (73 FR 3964) (FRL–8345–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E7256) by IR–4, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.480 be amended by establishing tolerances for combined residues of the fungicide fenbuconazole, alpha–[2–(4–chlorophenyl)– ethyl]–alpha–phenyl–3–(1H–1,2,4–triazole)– 1–propanenitrile, and its metabolites RH–9129, cis–5–(4–chlorophenyl)– dihydro–3–phenyl–3–(1H–1,2,4– triazole–1–ylmethyl)–2–3 H–furanone, and RH–9130, trans–5–(4–chlorophenyl)dihydro–3–phenyl–3–(1H–1,2,4–triazole–1–ylmethyl)–2–3 H–furanone, expressed as fenbuconazole in or on pepper at 0.40 parts per million (ppm). That notice referenced a summary of the petition prepared by Dow AgroSciences LLC, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

In addition, §180.480(a)(1), is revised to remove reference to ''time-limited tolerance'' as this section is dedicated to, and only contains, permanent

tolerances. Also, §180.480(a)(2) is deleted in its entirety as it relates solely to time-limited tolerances in paragraph (a)(1) and there are no such tolerances in paragraph (a)(1). In addition, the time-limited tolerance under §180.480(b) Section 18 emergency exemptions, for blueberry at 1.0 ppm that expired on 12/31/07 is deleted.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for combined residues of fenbuconazole on pepper at 0.40 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Fenbuconazole has low acute toxicity and is neither skin or eye irritants nor a dermal sensitizer. In subchronic and chronic feeding studies the liver was the main target of toxicity. At the LOAEL in the subchronic studies, there were changes in liver histopathology, predominantly hepatocellular hypertrophy. At doses higher than the LOAEL in the rat, the thyroid was a secondary target organ with increased follicular cell size. In the chronic studies, liver effects were seen (including hepatocellular hypertrophy and vacuolization, changes in liver enzymes, and increased liver weights), as well as decreased body weight gains. Again, in the chronic rat study, the thyroid was a secondary target with increased thyroid and parathyroid weights and thyroid follicular cell hypertrophy. In addition, increased mean T4 and decreased TSH were found in the high-dose rats near the end of the study. In the chronic dog study, kidney and adrenal weights were also increased. Males and females throughout the studies appeared to be equally sensitive to fenbuconazole toxicity, except in the chronic mouse study, where male mice appeared to be more sensitive than the females.

In the rat and rabbit developmental toxicity studies and the two generation study in rats, all effects in the pups occurred in the presence of maternal toxicity, including changes in body weight and body weight gains in rats and decreased food consumption and clinical signs in rabbits. Developmental effects included increased post-implantation loss and decreased fetuses per dam in the rat developmental study; increased early resorptions in the rabbit developmental study; and decreased mean pup body weight, increased number of stillborn pups, decreased number of total offspring delivered, and decreased viability index of pups in the two generation study in rats. No increased qualitative or quantitative susceptibility was observed in any of the studies. There was no evidence of neurotoxicity in any of the studies available in the toxicology database.

Fenbuconazole is not mutagenic. Fenbuconazole is classified as a Group C, possible human carcinogen, and febuconazole's human cancer risk is assessed quantitatively by a low dose extrapolation model applied to the experimental animal tumor data.

Specific information on the studies received and the nature of the adverse effects caused by fenbuconazole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document Fenbuconazole (7E7256) – Human Health Risk Assessment for the Proposed Use on Peppers at page 14 in docket ID number EPA–HQ–OPP–2007–0987–0003.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for fenbuconazole used for human risk assessment can be found at *http://www.regulations.gov* in document Fenbuconazole (7E7256) – Human Health Risk Assessment for the Proposed Use on Peppers at page 25 in docket ID number EPA–HQ–OPP–2007–0987–0003.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fenbuconazole, EPA considered exposure under the petitioned-for tolerances as well as all

existing fenbuconazole tolerances in (40 CFR 180.480). EPA assessed dietary exposures from fenbuconazole in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In estimating acute dietary exposure, EPA used the Dietary Exposure Evaluation Model (DEEM–FCID, Version 2.03), which uses food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intakes by Individuals (CSFII). As to residue levels in food, the acute dietary exposure analysis is based on tolerance-level residues and 100% crop treated assumptions. The only population subgroup that is relevant for this acute assessment is females of child-bearing age (i.e., females 13–49 years old).

ii. *Chronic(non-cancer) exposure*. In conducting the chronic dietary (food + water) exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, the chronic (non-cancer) dietary exposure analyses uses average residues from field trials. For many of the crops, separate studies were submitted and reviewed. For those crops, multiple averages were calculated and the highest average value was used in the analysis. The non-cancer dietary analysis assumes 100% crop treated.

iii. *Cancer*. The cancer exposure analysis uses average residues from field trials. In addition, estimates of average percent crop treated were used for certain commodities.

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

Anticipated residue data were used in the chronic (non-cancer) and cancer dietary risk analyses but not in the acute dietary risk analysis. For many crops, the anticipated residues used were the highest per-study-volume average residue value from the field trial studies for each crop that were submitted by the registrant.

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

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

In the cancer dietary exposure analysis, the Agency used the following estimated PCT information:

Apples 1%, apricots 10%, blueberries 40%, cherries 20%, grapefruit 40%, nectarines 10%, oranges 1%, peaches 15%, pecans 15%, prunes 1%, and tangerines 1%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in the preceding paragraphs have been met. With respect to Condition a, PCT estimates are derived from sources as discussed in the preceding paragraphs including Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which fenbuconazole may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models to determine the drinking water concentrations that were used in the dietary exposure analysis and risk assessment for fenbuconazole. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of fenbuconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

The assessments included conservative estimated drinking water concentrations (EDWC) based on either the pepper or the cherry use. Modeled surface water EDWCs are based on the maximum label application rate to peppers (acute value) or cherries (chronic and cancer values) while the groundwater EDWC is based on the maximum label application rate to cherries. The acute assessment is highly conservative with respect to evaluating potential impacts of dietary exposure to fenbuconazole on human health. The chronic (non-cancer) and cancer assessments are moderately conservative with respect to evaluating potential impacts of dietary exposure to fenbuconazole on human health.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking

water concentrations (EDWCs) of fenbuconazole for acute exposures are estimated to be 24.1 parts per billion (ppb) for surface water and 0.031 ppb for ground water. The EDWCs for chronic exposures for non-cancer assessments are estimated to be 16.5 ppb for surface water and 0.031 ppb for ground water. The EDWCs for chronic exposures for cancer assessments are estimated to be 11.7 ppb for surface water and 0.031 ppb for ground water.

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

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

Fenbuconazole is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events. In conazoles, however, a variable pattern of toxicological responses is found. Some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity, and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, refer to EPA's website at *http://www.epa.gov/pesticides/cumulative*.

Fenbuconazole is a triazole-derived pesticide. This class of compounds can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazole alanine and triazole acetic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including fenbuconazole, U.S. EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazole alanine, and triazole acetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (i.e., high end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X FQPA safety factor for the protection of infants and children. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment is found in the propiconazole reregistration docket at *http://www.regulations.gov*, docket ID number EPA–HQ–OPP–2005–0497. Additional information regarding the use proposed for fenbuconazole in this action can also be found at *http://www.regulations.gov* in document: ''Dietary Exposure Assessments for the Common Triazole Metabolites 1,2,4-Triazole, Triazolylalanine, Triazolylacetic Acid, and Triazolylypyruvic Acid; Updated to Include New Uses of Fenbuconazole, Ipconazole, Metconazole, Tebuconazole, and Uniconazole; and a Change in Plant-back Restriction for Tetraconazole'' in docket ID number EPA–HQ–OPP–2007–0987–0006.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(c) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. Available data provided no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to fenbuconazole. In the prenatal developmental study in rats and rabbits and the 2-generation study in rats, effects in the offspring were observed only at or above those treatment levels which resulted in maternal toxicity.

The degree of concern for infants and children exposed to fenbuconazole *in utero* and/or postnatally is low; there are no residual uncertainties. The toxicology database for fenbuconazole is complete and adequate for risk assessment purposes. Acceptable developmental studies in rats and rabbits and the 2-generation reproduction study in rats did not show evidence of increased susceptibility in offspring exposed to fenbuconazole *in utero* and/or postnatally. A NOAEL for acute effects has been selected for the subpopulation females (13–49 years old) based on developmental effects (increased resorptions and decreased live fetuses per dam) seen at the LOAEL in the developmental rat study. By regulating on the effects of concern for this subpopulation, the risk assessment is protective of potential effects to infants and children.

3. *Conclusion*. There is a complete toxicity data base for fenbuconazole and exposure data are complete or are estimated based on data that reasonably account for potential exposures. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for fenbuconazole is complete.

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

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

iv. There are no residual uncertainties identified in the exposure databases. Although somewhat refined, the dietary food exposure assessments were based on reliable data that will not underestimate exposure to fenbuconazole residues in food. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure

to fenbuconazole in drinking water. These assessments will not underestimate the exposure and risks posed by fenbuconazole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fenbuconazole will occupy 3.1 % of the aPAD for females 13–49 years old, the only subgroup of concern because of the toxicological properties of fenbuconazole.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fenbuconazole from food and water will utilize 6.8% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure, and 2.3% of the cPAD for the general U.S. population. There are no residential uses for fenbuconazole that result in chronic exposure. EPA does not expect aggregate exposure to exceed 100% of the cPAD for any population subgroup.

3. *Short- and intermediate-term risks*. Short- and intermediate-term aggregate exposures take into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Fenbuconazole is not registered for any use patterns that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from exposure to fenbuconazole through food and water and will not be greater than the chronic aggregate risk.

4. *Aggregate cancer risk for U.S. population*. Dietary exposure (food + water) is the only source of exposure to fenbuconazole that is expected to be chronic (cancer exposure is considered to be life-time exposure). The chronic (cancer) aggregate exposure and risk estimates are based on those for the general U.S. population group. In this case the risk is based on a cancer potency (Q_1*) value of 3.59×10^{-3} and a dietary exposure to fenbuconazole of 0.000473 mg/kg/day. The estimated cancer risk that resulted from this assessment is 1.7×10^{-6}. Typically, EPA is concerned when the cancer risk estimate associated with food and drinking water exceeds the range of 1 in 1 million (1×10^{-6}) . This risk range includes computed risks as high as 3×10^{-6}. As a result, cancer risk to the general U.S. population is below the Agency's level of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

Maximum Residue Levels (MRLs) for residues of fenbuconazole have been established by Codex, Canada, and Mexico. The residue definition for both Codex and Mexico is fenbuconazole, *per se*. The Canadian residue definition, however, is the combined residues of fenbuconazole and its metabolites, RH–9129 and RH–9130, each expressed as parent (i.e., the same as the U.S. tolerance definition). There are no established or proposed Canadian, Mexican, or Codex MRLs for fenbuconazole on pepper.

C. Revisions to Petitioned-For Tolerances

By this action, §180.480(a)(1), is revised to remove reference to ''time-limited tolerance'' as this section is dedicated to, and only contains, permanent tolerances. Also, §180.480(a)(2) is deleted in its entirety as it relates solely to time-limited tolerances in paragraph (a)(1) and there are no such tolerances in paragraph (a)(1). In addition, the time-limited tolerance under §180.480(b), section 18 emergency exemptions, for blueberry at 1.0 ppm that expired on 12/31/07 is deleted.

V. Conclusion

Therefore, tolerances are established for combined residues of the fungicide fenbuconazole, alpha–[2–(4–chlorophenyl)– ethyl]–alpha–phenyl–3–(1H–1,2,4–triazole)– 1–propanenitrile, and its metabolites RH–9129, cis–5–(4–chlorophenyl)– dihydro–3–phenyl–3–(1H–1,2,4– triazole–1–ylmethyl)–2–3 H–furanone, and RH–9130, trans–5–(4–chlorophenyl)dihydro–3–phenyl–3–(1H–1,2,4–triazole–1–ylmethyl)–2–3 H–furanone, expressed as fenbuconazole in or on pepper at 0.40 ppm.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments,

on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 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.

■ 2. Section 180.480 is amended by removing paragraph (a)(2); redesignating paragraph (a)(1) as paragraph (a); revising the introductory text in paragraph (a); adding alphabetically a commodity to the table in paragraph (a); and revising paragraph (b) to read as follows:

§ 180.480 Fenbuconazole; tolerances for residues.

(a) *General*. Tolerances are established for combined residues of the fungicide fenbuconazole, alpha–[2–(4–chlorophenyl)– ethyl]–alpha–phenyl–3–(1H–1,2,4–triazole)– 1–propanenitrile, and its metabolites RH–9129, cis–5–(4–chlorophenyl)– dihydro–3–phenyl–3–(1H–1,2,4– triazole–1–ylmethyl)–2–3 H–furanone, and RH–9130, trans–5–(4–chlorophenyl)dihydro–3–phenyl–3–(1H–1,2,4–triazole–1–ylmethyl)–2–3 H–furanone, expressed as fenbuconazole in or on the following agricultural commodities.

Commodity	Parts per million
* * * * *	
Pepper	0.40
* * * * *	

(b) *Section 18 emergency exemptions*. Time-limited tolerances are established for fenbuconazole (alpha-[2-4-chlorophenyl)-ethyl]alpha-phenyl-3-(1 H -1,2,4-triazole)-1-propanenitrile] and its metabolites, cis-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1 H -1,2,4-triazole-1-ylmethyl)-2-3 H -furanone and trans-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1 H 1,2,4-triazole-1-ylmethyl-2-3 H -furanone, expressed as fenbuconazole in or on the following raw agricultural commodities in connection with use of the pesticide under a section 18 exemption granted by EPA. The time-limited tolerances will expire on the date specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Cattle, fat	0.01	12/31/08
Cattle, meat	0.01	12/31/08
Goat, fat	0.01	12/31/08
Goat, meat	0.01	12/31/08
Hog, fat	0.01	12/31/08
Hog, meat byproducts	0.01	12/31/08
Hog, meat	0.01	12/31/08
Horse, fat	0.01	12/31/08
Horse, meat	0.01	12/31/08
Sheep, fat	0.01	12/31/08
Sheep, meat	0.01	12/31/08

* * * * *

[FR Doc. E8–19858 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0604; FRL–8377–7]

Dichlobenil; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of dichlobenil and its metabolite, 2,6-dichlorbenzamide, in or on bushberry subgroup 13–07B, caneberry subgroup 13–07A and rhubarb. It also removes existing tolerances on individual members of bushberry subgroup 13–07B (blueberry) and caneberry subgroup 13–07A (blackberry and raspberry) that are superseded by the new crop subgroup tolerances at the same tolerance levels. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 27, 2008. Objections and requests for hearings must be received on or before October 27, 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–2007–0604. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5218; e-mail address: *stanton.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- 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 to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0604 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before October 27, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0604, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of August 22, 2007 (72 FR 47010) (FRL–8142–5), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E7230) by Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201W, Princeton, NJ 08540–6635. The petition requested that 40 CFR 180.231 be amended by establishing tolerances for combined residues of the herbicide dichlobenil, 2,6-dichlorobenzonitrile, and its metabolite, 2,6-

dichlorobenzamide, in or on rhubarb at 0.15 parts per million (ppm); caneberry, subgroup 13a and wild raspberry at 0.1 ppm; and bushberry, subgroup 13b; aronia berry; bluberry, lowbush; buffalo currant; chilian guava; european barberry; highbush cranberry; honeysuckle; jostaberry; juneberry; lingonberry; native currant; salal; and sea buckthorn at 0.15 ppm. That notice referenced a summary of the petition prepared by Chemtura USA Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition and recent changes in EPA's crop grouping regulations, EPA has revised the tolerance level for rhubarb and the commodity terms for the berry tolerances. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

2,6-Dichlorobenzamide (BAM) is a common metabolite and soil degradate of dichlobenil and the fungicide fluopicolide. BAM is the major residue detected in plants following dichlobenil use and is, therefore, a residue of concern. For this reason, aggregate exposure and risk associated with BAM were assessed separately from dichlobenil. In assessing aggregate exposure and risk for BAM, EPA considered exposures associated with both dichlobenil and fluopicolide uses.

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for combined residues of dichlobenil and its metabolite, 2,6-dichlorobenzamide (BAM) on bushberry subgroup 13–07B, caneberry subgroup 13–07A and rhubarb at 0.15 ppm, 0.10 ppm and 0.06 ppm, respectively. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

In acute toxicity tests, dichlobenil demonstrated moderate acute toxicity via the oral, dermal and inhalation routes. It is neither a dermal irritant, eye irritant, nor a dermal sensitizer. In the subchronic and chronic oral toxicity studies in hamsters, rats and dogs, the liver was the primary target organ. For example, in a 90-day oral toxicity study in rats, inflammation and necrosis were observed in the liver of males, and increased liver weight and liver histopathology (swelling and vacuolation of hepatocytes) were observed in females. In a 90-day oral toxicity study in hamsters, increased liver weight, enlarged liver (with rough surface) and swollen hepatocytes were observed in females. In addition, decreased weight of the prostate and mineralization of the prostate were reported in males. Increased liver weights and hepatic enzymes, as well as liver histopathology, were observed at lower doses in two chronic dog toxicity studies, as well as in the combined chronic toxicity/carcinogenicity study in the rat.

In addition to the liver, the nose is considered a target organ for dichlobenil. Olfactory toxicity was observed following dermal and inhalation exposures in toxicity studies that were either published in the open literature (dermal) or submitted to the Agency (inhalation). In each study, degeneration of the olfactory epithelium, which is composed of olfactory sensory neurons, was observed. Olfactory toxicity was not observed in the chronic oral (capsule) toxicity study in the dog. No other evidence of neurotoxicity was seen in the toxicity studies for dichlobenil.

EPA classified dichlobenil as a Group C (possible human) carcinogen based on the results of carcinogenicity studies in hamsters and rats and its structural similarity to bromoxynil and thiobenzamide, which are associated with hepatocellular tumors in rodents. In a high-dose hamster study, there was a treatment-related increase in liver adenomas and combined adenomas/carcinomas in males at the highest dose tested; however, this dose was considered excessive, based on decreased body weight gains and severe hepatotoxicity. In a second hamster study, performed at lower, but adequate doses, there was no treatment-related increase in the incidence of any tumor type. In the rat study, there was a treatment-related increase in the incidence of hepatocellular tumors in females only. Based on the weight of the evidence, EPA classified dichlobenil as a possible human carcinogen but determined that the chronic dietary risk assessment based on the cPAD would be protective of any potential cancer effects for the following reasons: The liver tumors seen in male hamsters occurred only at an excessively high dose. The increases in liver tumors in the rat were statistically significant in only one sex (females), while tumors were predominantly benign adenomas and supporting evidence was weak at best. Although the tumor type (hepatocellular) is considered unusual for the strain of rat tested, tumors did not occur to an unusal degree or with an early onset. Further, dichlobenil was determined to be non-mutagenic in bacteria and mammalian cells, as well as non-clastogenic in several mammalian assays (*in vitro* and *in vivo*).

In the rat prenatal developmental toxicity study, maternal effects (decreased body weight gain, food consumption and food efficiency) were seen at the mid- and high doses, whereas no prenatal developmental effects occurred at any dose. In the rabbit developmental toxicity study, prenatal effects (an increase in total resorptions/dam, post-implantation loss, as well as external, visceral, and skeletal anomalies) occurred in the presence of maternal toxicity (severe decreases in body weight gain (120%) and food consumption (30%)). In the rat reproduction study, effects in the pups (decreased body weight during weaning in both F1 (16–23%) and F2 (19–22%) generation pups) occurred at a lower dose than that which resulted in parental toxicity (decreases in premating and gestation body weight gain and premating food consumption

in both parental and F1 generation adults), indicating increased quantitative susceptibility of the pups.

Delayed maturity of the uterus was observed in all high-dose females tested in the chronic oral (capsule) toxicity study in the dog. A marked decrease in mean uterine weight at the high dose confirmed this finding. Ovarian weights were also decreased in high-dose females, but no alterations were observed microscopically. These results are suggestive of modulation of the female endocrine system in this study; however, the dose utilized in the dichlobenil risk assessment for the chronic RfD is almost forty times lower than that at which the effects were observed and is considered protective of any potential endocrine modulation.

BAM demonstrated moderate acute toxicity via the oral route of exposure. In subchronic and chronic toxicity studies, the primary oral effects seen in the rat and dog were body weight changes. Adverse liver effects were also observed but at doses of BAM that were higher than those of dichlobenil. There is no evidence that BAM is either mutagenic or clastogenic; nor is there evidence of endocrine mediated toxicity. BAM is considered to be neurotoxic, based on clinical signs of neurotoxicity following oral exposure in several short-term assays, in addition to toxicity to the olfactory sensory neurons observed following single intraperitoneal exposures of mice to BAM. In the absence of carcinogenicity study data for a second species (a rat study is available), the EPA has assumed that BAM's carcinogenic potential is similar to that of dichlobenil, the parent compound having the greatest carcinogenicity potential. Dichlobenil is classified as a ''group C, possible human carcinogen.'' Quantification of cancer risk is based on the cPAD approach which requires comparison of the chronic exposure to the cPAD. Using this methodology will adequately account for all chronic toxic effects, including carcinogenicity, likely to result from exposure to dichlobenil and, therefore, to BAM.

Specific information on the studies received and the nature of the adverse effects caused by dichlobenil and BAM, as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies, can be found at *http://www.regulations.gov* in the documents *Dichlobenil; Human Health Risk Assessment for Proposed Uses on Rhubarb; Caneberry, Subgroup 13–07A; and Bushberry, Subgroup 13–07B*, page 37 and *2,6-Dichlorobenzamide (BAM); 2,6-Dichlorobenzamide (BAM) as a Metabolite/Degradate of Fluopicolide and Dichlobenil. Human Health Risk Assessment for Proposed Uses of Rhubarb, Dichlobenil on Caneberries (Subgroup 13–07A), and Bushberries (Subgroup 13–07B*, page 17 in docket ID number EPA–HQ–OPP–2007–0604.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for dichlobenil and BAM used for human risk assessment can be found at *http://www.regulations.gov* in the documents *Dichlobenil; Human Health Risk Assessment for Proposed Uses on Rhubarb; Caneberry, Subgroup 13–07A; and Bushberry, Subgroup 13–07B*, page 19 and *2,6-Dichlorobenzamide (BAM); 2,6-Dichlorobenzamide (BAM) as a Metabolite/Degradate of Fluopicolide and Dichlobenil. Human Health Risk Assessment for Proposed Uses of Rhubarb, Dichlobenil on Caneberries (Subgroup 13–07A), and Bushberries (Subgroup 13–07B*, page 5 in docket ID number EPA–HQ–OPP–2007–0604.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to dichlobenil, EPA considered exposure under the petitioned-for tolerances as well as all existing dichlobenil tolerances in 40 CFR 180.231. In evaluating dietary exposure to BAM, EPA considered exposure resulting from all proposed and registered uses of dichlobenil and fluopicolide. EPA assessed dietary exposures from dichlobenil and BAM in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

a. *Dichlobenil*. An effect of concern attributable to a single exposure was not identified for the general population, including infants and children; however, such effects (an increase in total resorptions/dam, post-implantation loss, as well as external, visceral, and skeletal anomalies) were identified for the population subgroup females, 13 to 49 years old. In estimating acute dietary exposure of females, 13 to 49 years old, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed that 100 percent of all crops with established or pending tolerances are treated with dichlobenil and contain tolerance-level residues.

b. *BAM*. EPA identified an effect of concern attributable to a single exposure for the general population (lethargy after a single dose in a dose range finding assay for an *in vivo* mouse erythrocyte micronucleus assay) and for females 13 to 49 years old (increased incidences of late abortion and skeletal and visceral anomalies in a rabbit developmental toxicity study). In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used

maximum residues of BAM from fluopicolide and dichlobenil field trials on food commodities with established/pending tolerances. The assessments assumed 100 percent crop treated (PCT) for all commodities except apples, blueberries, cherries, peaches, pears and raspberries.

ii. *Chronic exposure*. a. *Dichlobenil*. In conducting the chronic dietary exposure assessment, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed that 100 percent of all crops with established or pending tolerances are treated with dichlobenil and contain tolerance-level residues.

b. *BAM*. In conducting the chronic dietary exposure assessment, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used maximum residues of BAM from fluopicolide and dichlobenil field trials on food commodities with established/pending tolerances. The assessments assumed 100 PCT for all commodities except apples, blueberries, cherries, cranberries, peaches, pears and raspberries.

iii. *Cancer*. EPA classified dichlobenil as a Group C, possible human, carcinogen but determined that the chronic dietary risk assessment based on the cPAD would be protective of any potential cancer effects. The weight of the evidence supporting this determination is discussed in unit III.A. (Toxicological Profile). EPA has assumed that BAM's carcinogenic potential is similar to that of dichlobenil, the parent compound having the greatest carcinogenicity potential. As with dichlobenil, the chronic dietary risk assessment based on the cPAD is expected to protect for any potential cancer effects. Separate cancer exposure assessments are not needed for dichlobenil or BAM.

iv. *Anticipated residue and PCT information*. EPA did not use anticipated residues in the dietary risk assessments for dichlobenil but did use anticipated residues (maximum field trial residues) for BAM. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

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

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

The Agency did not use PCT information in the dichlobenil dietary risk assessments. For the BAM acute assessment, maximum PCT estimates were used for the following commodities: Apples, blueberries, cherries, peaches and pears, each at 2.5%; and raspberries at 5%. For the BAM chronic assessment, average PCT estimates were used for the following commodities: Apples, blueberries, cherries, peaches and pears, each at 1%; raspberries at 5%; and cranberries at 45%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which dichlobenil may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessments for dichlobenil and BAM in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of dichlobenil and BAM. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of dichlobenil for acute exposures are estimated to be 298 parts per billion (ppb) for surface water and 0.93 ppb for ground water. The estimated drinking water concentrations (EDWCs) of dichlobenil for chronic exposures for non-cancer assessments are estimated to

be 4.6 ppb for surface water and 0.93 ppb for ground water.

Based on the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of BAM for acute exposures are estimated to be 21 parts ppb for surface water and 56.2 ppb for ground water. The estimated drinking water concentrations (EDWCs) of BAM for chronic exposures for non-cancer assessments are estimated to be 8.6 ppb for surface water and 56.2 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment for dichlobenil, the water concentration value of 298 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment for dichlobenil, the water concentration value of 4.6 ppb was used to assess the contribution to drinking water. For acute and chronic dietary risk assessment for BAM, the water concentration value of 56.2 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

There are several dichlobenil products that may be used around roses and other woody ornamentals in established residential plantings. Since they are approved for professional applicator use only, residential handler exposures are not expected. Post-application exposure of adults and children to dichlobenil and BAM from the use of dichlobenil products on ornamental plantings is expected to be negligible and, therefore, was not assessed.

Fluopicolide is currently registered for the following uses that could result in residential exposure to the metabolite/degradate BAM: Residential turfgrass and recreational sites. EPA assessed residential exposure to BAM using the following assumptions: Residential handler exposure was not evaluated for turf uses, because the metabolite BAM is believed to form slowly in plants and soil after the product containing parent fluopicolide has been applied. Residential post-application exposure via the dermal route is likely for adults and children entering treated lawns; however, post-application exposure via the inhalation route is expected to be negligible. Toddlers may also be exposed via incidental ingestion (i.e., hand-to-mouth, object-to-mouth (turfgrass), and soil ingestion) during post-application activities on treated turf. Post-application exposures are expected to be of short and intermediate duration.

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

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to dichlobenil (parent) or its metabolite BAM and any other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that dichlobenil (parent) or its metabolite BAM has a common mechanism of toxicity with other substances. EPA has aggregated BAM exposure from both use of dichlobenil and fluopicolide. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(c) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. The pre- and postnatal toxicology database for dichlobenil includes rat and rabbit developmental toxicity studies and a 2-generation reproduction toxicity study in rats. There was no evidence of increased qualitative or quantitative susceptibility of *in utero* rats or rabbits in the developmental toxicity studies for dichlobenil. In the rat reproduction study, effects in the pups (decreased body weight during weaning) occurred at a lower dose than that which resulted in parental toxicity (decreases in premating and gestation body weight gain and premating food consumption), indicating increased quantitative susceptibility of the pups. However, the degree of concern for the body weight changes in pups is low. There are clear NOAELs for effects in both the pups and parental animals; and EPA is using the pup NOAEL, which is 6-fold lower than the dose at which decreased pup body weight was observed, to assess incidental oral exposure of children.

There was no evidence of increased prenatal susceptibility in the rabbit developmental toxicity study for BAM. In this study, an increase in the incidences of late abortion, as well as visceral and skeletal anomalies, was observed at the high dose. However, severe maternal toxicity (severely decreased body weight gain and food consumption and late abortion) was also observed at the same dose.

3. *Conclusion–i. Dichlobenil*. EPA has determined that the 10X FQPA SF must be retained for all prechronic (i.e., acute and subchronic) oral exposure scenarios. EPA has also determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for all other (i.e., chronic, dermal or inhalation) exposure scenarios. These decisions are based on the following findings:

a. The dichlobenil database is incomplete to the extent that the existing data have not assayed the potential for dichlobenil to induce olfactory toxicity following short-term (prechronic) oral exposure. Olfactory toxicity has been assayed and demonstrated after dermal, inhalation and intraperitoneal exposure of rodents to dichlobenil. No oral studies, to date, have reported olfactory toxicity for dichlobenil; however, olfactory toxicity was assayed in only one study – a chronic dog study – submitted to the Agency. In the chronic dietary dog study, no effects on the nasal epithelium from long term exposure were observed. Due to the uncertainty regarding the potential for dichlobenil to induce olfactory toxicity following oral exposure of prechronic duration, EPA has retained the 10X FQPA SF. For chronic exposures and prechronic dermal and inhalation exposure scenarios, the 10X SF is not needed to account for database uncertainty. Olfactory toxicity was not observed in the chronic oral dog study, and the

doses selected for dermal and inhalation exposure risk assessments are based on a very sensitive and conservative endpoint (olfactory histopathology – epithelial damage). This is a conservative endpoint because it is unknown whether this olfactory histopathology would have an adverse effect on the function of the sense of smell.

b. Apart from the degenerative effects of dichlobenil on olfactory sensory neurons, there are no other indications of neurotoxicity in any of the studies available for dichlobenil. The 10X FQPA SF being retained for prechronic oral exposure scenarios is adequate to account for olfactory neurotoxicity. For dermal and inhalation exposure scenarios, EPA is using a very sensitive endpoint that should be protective of all populations, including infants and children.

c. There is no evidence that dichlobenil results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental toxicity studies. Although there is evidence of quantitative susceptibility in the 2-generation reproduction study in rats, the degree of concern is low, and the Agency did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of dichlobenil.

d. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed assuming 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to dichlobenil in drinking water. Residential exposure of infants and children to dichlobenil is expected to be negligible. These assessments will not underestimate the exposure and risks posed by dichlobenil.

ii. *BAM:* EPA has retained the 10X FQPA SF for BAM for those exposure scenarios that do not rely on dichlobenil toxicity data. These scenarios are acute dietary for the general population (including infants and children) and females 13–49 years of age; chronic dietary; and incidental oral non-dietary. Although EPA has developmental, reproduction, and subchronic and chronic toxicity studies for the metabolite BAM, and a structure activity analysis indicates EPA has identified its principal toxicological effects and level of toxicity, EPA is retaining the FQPA 10X SF due to remaining questions regarding the systemic neurotoxic potential of BAM, including olfactory toxicity via the oral route of exposure and the use of a LOAEL in assessing acute dietary risk for the general population. For the dermal and inhalation routes of exposures, for which the Agency is relying on dichlobenil toxicity data, EPA has reduced the FQPA SF for BAM toxicity to 1X, based on a comparison of toxicity via the intraperitoneal route of exposure showing that higher doses of BAM are needed to induce levels of olfactory toxicity that are similar to those caused by dichlobenil. Olfactory toxicity, the most sensitive endpoint, was the endpoint chosen for these exposure scenarios. Other factors EPA considered in the FQPA SF decisions for BAM include the following:

a. To compensate for deficiencies in the toxicology database for BAM, EPA performed a comparative analysis of the toxicity of BAM and the parent compounds, dichlobenil and fluopicolide, using the available animal data and DEREK analysis. DEREK is a toxicology application that uses structure-activity relationships to predict a broad range of toxicological properties based on a comprehensive analysis of a compound's molecular structure. Based on the available animal data and Derek analyses, BAM does not appear to cause different organ specific toxicities compared to fluopicolide and dichlobenil. The kidney and liver toxicities are common to all three compounds. With respect to relative toxicity, conclusions from the evaluation of the animal studies appear to confirm that both fluopicolide and dichlobenil appear to be more or equally toxic compared to BAM. A full discussion of EPA's comparative toxicity analysis of BAM, dichlobenil and fluopicolide can be found at *http://www.regulations.gov* in the document *Comparative Toxicity using Derek analysis for Dichlobenil, Fluopicolide and BAM* in docket ID number EPA–HQ–OPP–2007–0604. Based on the results of the available animal data and the DEREK analysis, EPA concludes that the safety factors discussed in the previous paragraph are adequate.

b. There is no evidence that BAM results in increased susceptibility of *in utero* rabbits in the prenatal developmental toxicity study.

c. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were refined using reliable PCT information and anticipated residue values calculated from residue field trial results. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to BAM in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by BAM.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk.* An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dichlobenil will occupy 33% of the aPAD for females, 13 to 49 years old, the only subpopulation at risk from acute exposure to dichlobenil.

EPA performed two different acute risk assessments for BAM – one focusing on females 13 to 49 years old and designed to protect against prenatal effects and the other focusing on acute effects relevant to all other population groups. The more sensitive acute endpoint was seen as to prenatal effects rather than other acute effects. For females 13 to 49 years old, the acute dietary exposure from food and water will occupy 28% of the aPAD addressing prenatal effects. As to acute effects other than prenatal effects, the acute dietary exposure from food and water to BAM will occupy 28% of the aPAD for infants less than 1 year old, the population subgroup with the highest estimated acute dietary exposure to BAM.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to dichlobenil from food and water will utilize 30% of the cPAD for children, 1 to 2 years old, the population group receiving the greatest dichlobenil exposure. Chronic exposure to BAM from food and water

will utilize 93% of the cPAD for infants, less than 1 year old, the population group receiving the greatest BAM exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of dichlobenil or BAM is not expected.

3. *Short-/intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account short- or intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Although dichlobenil is registered for use on ornamentals in residential areas, residential handler exposures are not expected and post-application exposures of adults and children are expected to be negligible. Therefore, the short-term aggregate risk is the sum of the risk from exposure to dichlobenil through food and water and will not be greater than the chronic aggregate risk.

Fluopicolide is currently registered for uses that could result in short- and intermediate-term residential exposure to its metabolite, BAM, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short- and intermediate-term oral residential exposures to BAM. It is not appropriate to aggregate dietary (i.e., oral) exposures and dermal exposures because the toxic effects identified for the oral and dermal exposure pathways differ. Using the exposure assumptions described in this unit for short- and intermediate-term exposures, EPA has concluded the combined short-term food, water, and residential exposures aggregated result in aggregate MOEs of 3,200 for infants and 5,400 for children, 1 to 2 years old. The aggregate MOEs for infants and children include food and drinking water exposures to BAM from all existing and new uses of dichlobenil and fluopicolide, as well as post-application incidental oral exposures from activities on lawns treated with fluopicolide. MOEs for dermal exposures on treated lawns are 10,000 for adults and 6,000 for infants/children. As noted above, it is not appropriate to aggregate chronic exposure from food and water with oral exposures. Post-application inhalation exposure of adults and children is expected to be negligible.

4. *Aggregate cancer risk for U.S. population*. The Agency has determined that quantification of human cancer risk is not necessary for dichlobenil or BAM and that the chronic risk assessments based on the established cPADs are protective of potential cancer effects. Based on the results of the chronic risk assessments discussed in Unit III.E.2, EPA concludes that dichlobenil and BAM are not expected to pose a cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Pesticide Analytical Manual (PAM) Vol. II, Method A, a gas-liquid chromatography/electroconductivity detector (GLC/ECD) method) is available to enforce the tolerance expression. In addition, dichlobenil is completely recovered using the multiresidue methods in PAM Vol. I Sections 302 and 304. BAM is completely recovered using Section 302.

B. International Residue Limits

No CODEX, Canadian or Mexican maximum residue limits (MRLs) have been established for dichlobenil.

C. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting the petition and recent changes in EPA's crop grouping regulations, EPA has revised the tolerance level for rhubarb and the commodity terms for the berry tolerances. The tolerance for rhubarb was reduced from 0.15 ppm to 0.06 ppm, the lower limit of method validation (LLMV), based on the absence of detectable residues in the field trials.

IR–4 petitioned for individual tolerances on caneberry, subgroup 13a and wild raspberry; bushberry, subgroup 13b; aronia berry; bluberry, lowbush; buffalo currant; chilian guava; european barberry; highbush cranberry; honeysuckle; jostaberry; juneberry; lingonberry; native currant; salal; and sea buckthorn. In the **Federal Register** of December 7, 2007 (72 FR 69150) (FRL–8340–6), EPA issued a final rule that revised the crop grouping regulations. As part of this action, EPA expanded and revised berries group 13. Changes to crop group 13 (berries) included adding new commodities, revising existing subgroups and creating new subgroups (including Caneberry subgroup 13–07A and Bushberry subgroup 13–07B, which include the berry commodities requested in IR–4's petition and cultivars, varieties, and/or hybrids of these).

EPA indicated in the December 7, 2007 final rule as well as the earlier May 23, 2007 proposed rule (72 FR 28920 (FRL–8126–1) that, for existing petitions for which a Notice of Filing had been published, the Agency would attempt to conform these petitions to the rule. Therefore, consistent with this rule, EPA is establishing tolerances on Caneberry subgroup 13–07A and Bushberry subgroup 13–07B. All of the berry commodities for which IR–4 requested tolerances are included in these revised subgroups.

EPA concludes it is reasonable to revise the petitioned-for tolerances so that they agree with the recent crop grouping revisions because:

1. Although the new crop groups/subgroups include several new commodities, the added commodities are closely related minor crops which contribute little to overall dietary or aggregate exposure and risk; and dichlobenil/BAM exposure from these added commodities was considered when EPA conducted the dietary and aggregate risk assessments supporting this action; and

2. The representative commodities for the revised crop group/subgroups have not changed.

V. Conclusion

Therefore, tolerances are established for combined residues of dichlobenil, 2,6-dichlorobenzonitrile, and its metabolite, 2,6-dichlorobenzamide, in or on bushberry subgroup 13–07B at 0.15 ppm; caneberry subgroup 13–07A at 0.10 ppm; and rhubarb at 0.06 ppm. The existing tolerances on individual members of bushberry subgroup 13–07B (blueberry) and caneberry subgroup 13–07A (blackberry and raspberry) that are superseded by the new crop subgroup tolerances at the same tolerance levels are being removed.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety*

Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 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.

■ 2. Section 180.231 is amended by removing the commodities Blackberry, Blueberry and Raspberry and alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

§ 180.231 Dichlobenil; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * *	*
Bushberry subgroup 13–07B	0.15
Caneberry subgroup 13–07A	0.10
* * * *	*
Rhubarb	0.06

* * * * *

[FR Doc. E8–19859 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 02–353; FCC 03–251]

Service Rules for Advanced Wireless Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In this document the Federal Communications Commission corrects an inadvertent error that occurred when the Commission adopted final rules for the Advanced Wireless Services in the 1710–1755 MHz and 2110–2155 MHz bands, including provisions for application, licensing, operating and technical rules, and for competitive bidding. These rules were published in the **Federal Register** on Friday, February 6, 2004 (69 FR 5711). Specifically, the error occurred in a table to the rules concerning interference protection at certain Federal Government operations in the 1710–1755 MHz band. As a result of this correction, the table will be amended as intended by the Commission.

DATES: Effective August 27, 2008.

FOR FURTHER INFORMATION CONTACT: John Spencer at 202–418–2487.

SUPPLEMENTARY INFORMATION: This is a correction to a summary of the Commission's Report and Order in WT Docket No. 02–353, FCC 03–251, adopted on October 16, 2003 and released on November 25, 2003. The Report and Order adopted licensing, technical, and competitive bidding rules to govern the use of the spectrum at 1710–1755 MHz and 2110–2155 MHz, which had previously been allocated for advanced wireless services, in a manner that would enable service providers to put this spectrum to use for any purpose consistent with its allocation.

Need for Correction

As published, the final rules contain an error in § 27.1134 in Table 1. The Commission inadvertently omitted the abbreviation for the word kilometers (km) after the category heading 'Radius of Operation' in Table 1: Protected Department of Defense Facilities. This correction restores the information that was inadvertently omitted.

List of Subjects in 47 CFR Part 27

Communications common carriers, Radio.

■ Accordingly, 47 CFR part 27 is amended by making the following correcting amendments:

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 1. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336 and 337 unless otherwise noted.

■ 2. Section 27.1134 is amended by revising Table 1 to read as follows:

§ 27.1134 Protection of Federal Government operations.

* * * * *

TABLE 1—PROTECTED DEPARTMENT OF DEFENSE FACILITIES

Location	Coordinates	Radius of operation (km)
Cherry Point, NC	34°58′ N, 076°56′ W	100
Yuma, AZ	32°32′ N, 113°58′ W	120
China Lake, CA	35°41′ N, 117°41′ W	120
Eglin AFB, FL	30°29′ N, 086°31′ W	120
Pacific Missile Test Range/Point Mugu, CA	34°07′ N, 119°30′ W	80
Nellis AFB, NV	36°14′ N, 115°02′ W	160
Hill AFB, UT	41°07′ N, 111°58′ W	160
Patuxent River, MD	38°17′ N, 076°25′ W	80
White Sands Missile Range, NM	33°00′ N, 106°30′ W	80
Fort Irwin, CA	35°16′ N, 116°41′ W	50
Fort Rucker, AL	31°13′ N, 085°49′ W	50
Fort Bragg, NC	35°09′ N, 079°01′ W	50
Fort Campbell, KY	36°41′ N, 087°28′ W	50
Fort Lewis, WA	47°05′ N, 122°36′ W	50
Fort Benning, GA	32°22′ N, 084°56′ W	50
Fort Stewart, GA	31°52′ N, 081°37′ W	50

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–19880 Filed 8–26–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 00–96; FCC 08–86]

Carriage of Digital Television Broadcast Signals; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collections associated with the Commission's 2008 Second Report and Order, concerning *Carriage of Digital Television Broadcast Signals*. This notice is consistent with the Second Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective of the rules once OMB approval has been received for the information collection requirements.

DATES: Sections 47 CFR 76.66(b)(1), 47 CFR 76.66(d)(2)(vi) and the non-rule requirement at paragraph 16, published at 73 FR 24502, May 5, 2008, are effective August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, *Rosalee.Chaira@fcc.gov* or (202) 418–0754.

SUPPLEMENTARY INFORMATION: This document announces that, on August 21, 2008, OMB approved, for a period of three years, the information collection requirements contained in the Commission's Second Report and Order concerning *Carriage of Digital Television Broadcast Signals*, FCC 08–86, published at 73 FR 24502, May 5, 2008. The OMB Control Number that is assigned to these information collection requirements is 3060–0980. The Commission publishes this notice as announcement of the effective date of the rules and announcement of OMB approval for information collections. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0980, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov*.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on August 21, 2008, for the information collection requirements contained in the Commission's rules at 47 CFR 76.66(b)(1), 47 CFR 76.66(d)(2)(vi) and non-rule requirements contained in paragraph 16 (see 73 FR 24502). The OMB Control Number assigned is 3060–0980 for all of the information collection requirements contained in 47 CFR 76.66(b)(1), 47 CFR 76.66(d)(2)(vi), and non-rule requirements contained in paragraph 16 (see 73 FR 24502). The total annual reporting burden for respondents for the collection is estimated to be: 10,280 respondents; 11,938 responses; and a total annual burden hours of 12,146 hours, and $16,000 total annual cost burden.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, 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.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–19883 Filed 8–26–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No.0808191118–81120–01]

RIN 0648–AX19

Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Main Hawaiian Islands Bottomfish; Delay of Fishery Opening

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

ACTION: Temporary rule for emergency action; delay of fishery opening; request for comments.

SUMMARY: NMFS is delaying until November 15, 2008, the opening of the commercial and non-commercial fisheries in the main Hawaiian Islands (MHI) for seven deepwater bottomfish species (''Deep 7'' bottomfish). This emergency rule to delay the fishery opening is necessary to prevent overfishing and ensure that regulations specifying the total allowable catch (TAC) are based on the best available scientific information. This emergency rule is also necessary to complement State of Hawaii regulations that will delay the opening of the fishery in State waters, thereby preventing confusion by the public caused by conflicting Federal and State regulations, and minimizing any resulting enforcement difficulties for the State.

DATES: This emergency rule is effective August 22, 2008 through November 14, 2008.

Comments on this emergency rule must be received by September 11, 2008.

ADDRESSES: Comments on this rule, identified by 0648–AX19, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov*; or
- Mail: Mail written comments to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily 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 will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR, 808–944–2271.

SUPPLEMENTARY INFORMATION: The bottomfish fishery in Federal waters around Hawaii is managed under the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (Bottomfish FMP), developed by the Western Pacific Fishery Management Council (Council) and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing bottomfish fishing by U.S. vessels in accordance with the Bottomfish FMP appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

On April 4, 2008, NMFS published a final rule (73 FR 18457) that implemented Amendment 14 to the Bottomfish FMP to end the overfishing of bottomfish in the Hawaiian Archipelago. The regulations established by Amendment 14 at § 665.72 authorize NMFS to set an annual TAC limit for Deep 7 bottomfish, as recommended by the Council and based on the best available scientific, commercial, and other information, and taking into account the associated risk of overfishing. The Deep 7 bottomfish are onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapu'upu'u (*Epinephelus quernus*). The fishery is monitored using information reported by holders of State commercial marine licenses (State CML) through monthly catch reports submitted to the State. Beginning with the 2008–09 MHI bottomfish fishing year, fish catch and effort information from non-commercial fishermen who fish for bottomfish in Federal waters around Hawaii are obtained through a Federal logbook program administered by NMFS. This information is used in combination with the State catch reports to monitor the annual TAC.

When the TAC for the year is projected to be reached, NMFS is required to publish notification that the fishery will be closed beginning on a specified date until the end of the fishing year in which the TAC is reached. During the closure, no person may fish for, possess, or sell any Deep 7 bottomfish in the MHI, except as otherwise authorized by law. Specifically, fishing for, and the resultant possession or sale of, Deep 7 bottomfish by vessels legally registered to Mau Zone, Ho omalu Zone, or Pacific Remote Island Areas bottomfish fishing permits, and conducted in compliance with all other laws and regulations, are not affected by the closure. There is no prohibition on fishing for or selling other non-Deep 7 bottomfish species throughout the year.

For the 2007–08 fishing year, the TAC was established by the Council at 178,000 lb (80,739 kg) (73 FR 18718, April 7, 2008). Monitoring of the fishery indicated that the MHI bottomfish fishery harvested the TAC in April 2008. In accordance with regulation § 665.72, and as a result of reaching the TAC, NMFS published a temporary rule closing the fishery on April 16, 2008 (April 7, 2008; 73 FR 18717), and a related correction notice (73 FR 20001; April 14, 2008). The fishery is scheduled to reopen on September 1, 2008, the date the temporary rule expires.

The Council held its 142nd meeting in Honolulu in June 2008. At that meeting, the Council learned that additional data had been obtained for the fishery and that the new data were integral to the analysis by NMFS to update the bottomfish stock assessment. An updated stock assessment provides the best scientific basis upon which the Council can make its recommendation on a TAC. Inasmuch as an updated bottomfish stock assessment was not available at the June meeting, the Council was not able to recommend a TAC in accordance with the best scientific information available, as required by regulation § 665.72(a) and Magnuson-Stevens Act National Standard 2. The new stock assessment is to be available before the Council's next meeting in October 2008.

Accordingly, the Council, by majority vote, recommended that NMFS delay the opening of the fishery until November 15, 2008.

NMFS has been informed that the State will be taking action to extend the temporary closure to bottomfish fishing in State waters around the MHI from August 31 until November 14, 2008, and is expecting NMFS to do the same for Federal waters.

This delay in opening the fishery is necessary to prevent overfishing of Hawaiian bottomfish. From 1990–2004, annual commercial landings of Deep 7 bottomfish caught in Federal waters of the MHI ranged from approximately 29,000 to 81,000 lb (13,154 to 36,741 kg). The catch during September and October of each year during the same period ranged from 27,000 to 62,000 lb (12,247 to 28,123 kg), representing 13 to 24 percent of the Deep 7 species landed annually by commercial fishermen from Federal waters.

The potential contribution of the catch from Federal waters to overfishing of Hawaiian bottomfish is clear when one considers the relative portion of landings from Federal waters to the total Deep 7 bottomfish landings from both State and Federal waters. Annually, the landings from Federal waters during 1990–2004 comprised 12 to 25 percent of the total MHI landings. September landings from Federal waters made up 6 to 24 percent of the MHI total, and October landings comprised 10 to 28 percent of the total. Non-commercial landings of Deep 7 bottomfish are currently unknown, but they certainly add to the mortality of Deep 7 bottomfish, and are believed to be substantial.

Thus, in the absence of a TAC, any fishing for Deep 7 bottomfish during September and October could potentially worsen overfishing in the MHI. The delay in opening the fishery is necessary to prevent overfishing in, and preserve sustainable management of, the bottomfish fishery, based on the best scientific information available. Without the emergency rule to delay the opening, a TAC cannot be published that would be consistent with Magnuson-Stevens Act National Standard 1 (preventing overfishing) and National Standard 2 (being based on the best available scientific information). To allow the fishery to open without a TAC would, moreover, be contrary to existing management regulations intended to end bottomfish overfishing, create extreme confusion among the public, and affect the joint effort of the Council, NMFS, and the State in addressing the overfishing condition of bottomfish complex in the MHI. In addition, the inconsistency between State and Federal regulations would seriously compromise the State's enforcement abilities to extend the closure of the Deep 7 bottomfish fishery in State waters until mid-November 2008.

Classification

NMFS is developing an environmental assessment (EA) for a proposed and final rule on TAC alternatives for the 2008–09 fishing year. The EA will be made available to the public for comment before the Council's meeting in October 2008, with sufficient time for the public comments to be considered by the Council, prior to the Council recommending a TAC for the 2008–09 fishing year, and in conjunction with the updated stock assessment.

Pursuant to authority set forth at U.S.C. 553(b)(B), the Assistant Administrator Fisheries, NOAA, (AA) finds it is contrary to the public interest to provide for prior notice and an opportunity for public comment. Fishing for Deep 7 bottomfish without an established TAC could worsen overfishing in the MHI. A TAC cannot be published that would be consistent with Magnuson-Stevens Act National Standards 1 and 2, so the emergency rule is necessary to delay the opening of the fishery from September 1, 2008, to November 15, 2008. Fishery statistics indicate that the amount of bottomfish harvested in Federal waters, alone, during September and October could reach 50 percent of the previous TAC. Based on preliminary information, the TAC for the 2008–09 fishing year may be reduced, and if fishing continues at historical levels during September and October on a much-reduced TAC, overfishing is likely to result, absent a delay of the opening.

Similarly, the need to implement these measures in a timely manner to delay of the opening of the Deep 7 bottomfish fishery to prevent overfishing, reduce confusion among the public, and minimize inconsistency between State and Federal regulations, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the 30–day delay in effective date. The impact to fishermen of this temporary closure is minimal because closing the fishery upon reaching the TAC is intended to benefit the fishery by ending overfishing and providing sustainable bottomfish resources. Bottomfish fishermen typically fish for non-Deep 7 bottomfish (in addition to the Deep 7 bottomfish that is temporarily closed) and also participate in troll fishing for pelagic species. These other fisheries are not affected by the closure, so fishermen are provided alternative fishery opportunities during the closure for Deep 7 bottomfish.

Accordingly, this emergency temporary rule will be effective upon filing for publication at the Office of the Federal Register. Public comments on the emergency closure will be accepted for 15 days after publication of this emergency rule in the **Federal Register**.

Pursuant to the authority set contained in 5 U.S.C. 603, this emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment. Accordingly, no regulatory flexibility analysis is required, and none was prepared.

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

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian Natives, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: August 22, 2008.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 665 is amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for part 665 reads as follows:

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

■ 2. In § 665.62, suspend paragraphs (l) and (m) and add paragraphs (o) and(p) to read as follows:

§ 665.62 Prohibitions.

* * * * *

(o) Fish for or possess any Hawaii Restricted Bottomfish Species as specified in § 665.71, in the Main Hawaiian Islands Management Subarea after a closure of the fishery, in violation of §§ 665.72, 665.74, or 665.75.

(p) Sell or offer for sale any Hawaii Restricted Bottomfish Species, as specified in § 665.71, after a closure of the fishery, in violation of §§ 665.72, 665.74, or 665.75.

■ 3. Under subpart E, add a new § 665.75 to read as follows:

§ 665.75 Closed season.

(a) All fishing for, or possession of, any Hawaii Restricted Bottomfish

Species as specified in § 665.71, is prohibited in the Main Hawaiian Islands Management Subarea during September 1, 2008, through November 14, 2008, inclusive. All such species possessed in the Main Hawaiian Islands Management Subarea are presumed to have been taken and retained from that Subarea, unless otherwise demonstrated by the person in possession of those species.

(b) Hawaii Restricted Bottomfish Species, as specified in § 665.71, may not be sold or offered for sale during September 1, 2008, through November 14, 2008, inclusive, except as otherwise authorized by law.

(c) Fishing for, and the resultant possession or sale of, Hawaii Restricted Bottomfish Species by vessels legally registered to Mau Zone, Ho'omalu Zone, or PRIA bottomfish fishing permits and conducted in compliance with all other laws and regulations, is exempted from paragraphs (a) and (b).

[FR Doc. E8–19870 Filed 8–22–08; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 167
Wednesday, August 27, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531 and 550

RIN 3206–AL61

Determining Rate of Basic Pay; Collection by Offset From Indebted Government Employees

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing proposed regulations to conform with provisions of the National Defense Authorization Act for Fiscal Year 2008. The proposed regulations revise the rules regarding setting pay for certain employees who move from nonappropriated fund instrumentality (NAFI) positions to General Schedule positions. Also, the proposed regulations allow certain NAFIs to collect debts owed to them by Federal employees via salary offset and allow Federal agencies to collect debts by offsetting salary payments of certain NAFI employees.

DATES: Comments must be received on or before October 27, 2008.

ADDRESSES: You may submit comments, identified by RIN ''3206–AL61,'' using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: pay-performance-policy@opm.gov.

Fax: (202) 606–0824.

Mail: Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave Administration, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200.

FOR FURTHER INFORMATION CONTACT: David Barash by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail at *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing proposed regulations to revise the rules regarding setting pay for certain employees who move from nonappropriated fund instrumentality (NAFI) positions to General Schedule (GS) positions. Also, the proposed regulations allow certain NAFIs to collect debts owed to them by Federal employees via salary offset and allow Federal agencies to collect debts by offsetting salary payments of certain NAFI employees. The proposed regulations conform with sections 652 and 1114 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181, January 28, 2008), hereafter referred to as ''the Act.'' These amendments became effective on January 28, 2008.

Pay Setting Upon Movement From a NAFI to a GS Position

Section 1114 of the Act amends 5 U.S.C. 5334(f) to provide that a NAFI employee in the Department of Defense (DOD) or the United States Coast Guard (USCG) (as described in 5 U.S.C. 2105(c)) who moves voluntarily to a GS position in DOD or USCG, respectively, without a break in service of more than 3 days may (at the employing agency's discretion) have the GS rate of basic pay set at the lowest step rate of the applicable GS grade that equals or exceeds the former NAFI rate. Under previous law, the employee's GS rate of basic pay could not exceed the formerly applicable NAFI rate in such voluntary movements; thus, setting the rate at a GS step for these former NAFI employees generally resulted in a reduction in pay. The amendment permits DOD and USCG to set pay at the next higher step rate, avoiding a pay reduction.

Therefore, we propose revising the regulations at 5 CFR 531.216 governing setting pay when a NAFI employee in DOD or USCG moves to a GS position in DOD or USCG, respectively, without a break in service of more than 3 days, to conform with changes made by the Act.

Paragraph (c)(1) in § 531.216 currently states that when an employee covered under this section moves voluntarily, the agency may set the employee's initial payable rate of basic pay at any step rate in the highest applicable rate range currently in effect for the employee's GS position of record and official worksite which does not exceed the employee's NAFI highest previous rate of pay, except as provided in paragraph (c)(2) or (3) of § 531.216. We propose revising this provision to allow DOD and USCG to set the employee's initial payable rate of basic pay at the lowest step of the applicable GS grade that equals or exceeds the NAFI highest previous rate, or at a lower step. We also propose clarifying that pay may not be set above the maximum (step 10) rate of the rate range.

We propose similar revisions in paragraph (c)(2) of § 531.216, which provides the rules for setting pay when a covered NAFI employee moves voluntarily and the highest applicable rate range would be different if the official worksite for the employee's GS position of record were located at the place where the employee was stationed while earning the NAFI highest previous rate.

Paragraph (d) of § 531.216 provides the rules for when a covered NAFI employee is moved involuntarily. Under paragraph (d)(1) of § 531.216, a covered employee who is moved involuntarily is entitled to an initial payable rate of basic pay at the lowest step rate of the grade that is equal to or greater than the employee's rate of basic pay in the NAFI position immediately before the move. Paragraph (d)(2) of § 531.216 currently states that an agency may set the initial payable rate of basic pay at a step rate within the highest applicable rate range for the employee's GS position of record and official worksite that does not exceed the employee's NAFI highest previous rate (consistent with the method prescribed in paragraphs (c)(1) and (2)) if that provides a higher rate of basic pay than the employee's entitlement under paragraph (d)(1). We propose revising paragraph (d)(1) of § 531.216 to clarify that, if the employee's former NAFI rate exceeds the range maximum, the agency must identify the maximum step rate (step 10) as the employee's maximum payable rate. We also propose revising paragraph (d)(2)(i) in § 531.216 so an agency may set the initial payable rate of basic pay at the lowest step rate within the highest applicable rate range for the employee's GS position of record and official worksite that equals or exceeds the employee's NAFI highest previous rate, or any lower step rate (consistent with the proposed revisions to paragraphs (c)(1) and (2)) if that provides a higher

rate of basic pay than the employee's entitlement under paragraph (d)(1).

We are also taking this opportunity to clarify certain provisions. Section 531.216 uses the phrases ''without a change in employing agency'' and ''same agency'' to refer to movements within DOD and within USCG. However, these phrases are inconsistent with the definition of *agency* in 5 CFR 531.203, which means (in part) an executive agency. For example, USCG is a component of the U.S. Department of Homeland Security (DHS) and is not an executive agency itself. The NAFI pay setting regulations at § 531.216 do not apply to a NAFI employee in the USCG who moves to a GS position within DHS, but outside of USCG. Therefore, we propose to clarify the regulations by replacing the phrases ''without a change in employing agency'', ''different agency'', and ''same agency'' in paragraphs (a), (c)(1) and (d)(1) of § 531.216 with more descriptive and accurate phrases such as, ''from a NAFI position in the Department of Defense or the Coast Guard to a GS position in the Department of Defense or the Coast Guard, respectively''.

Salary Offset

Section 652 of the Act provides that employees of a NAFI of DOD or USCG (as described in 5 U.S.C. 2105(c)) are covered by the salary offset law in 5 U.S.C. 5514. Section 5514 provides authority for collection of debts owed the Federal Government by offset of Federal employee salary payments. This amendment allows DOD and USCG NAFIs to collect debts owed to them by Federal employees via salary offset. It also allows Federal agencies to collect debts by offsetting salary payments of DOD and USCG NAFI employees. Therefore, we are proposing to revise the regulations at 5 CFR 550.1103 to add ''any nonappropriated fund instrumentality described in 5 U.S.C. 2105(c)'' to the definition of *agency.*

In addition, we are proposing to revise the regulations at 5 CFR 550.1103 to change the name of the Postal Rate Commission to Postal Regulatory Commission in the definition of *agency* as a result of section 604 of the Postal Accountability and Enhancement Act (Pub. L. 109–435, December 20, 2006), which amended 5 U.S.C. 5514(a)(5)(B), to reflect the Commission's change in name. We also propose adding ''If an agency under this definition is a component of an agency, the broader definition of *agency* may be used in applying the provisions of 5 U.S.C. 5514(b) (concerning the authority to prescribe regulations).'' This provision makes clear, for example, that DOD may issue salary offset regulations that cover the military departments and DOD NAFIs (as described in 5 U.S.C. 2105(c)), even though each of those DOD components is itself an *agency* under the definition of *agency* in proposed § 550.1103. Since DOD is an executive department, it is a covered agency and can issue salary offset regulations that cover employees in every part of DOD, including employees in any DOD component that has separate status as an agency.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 531 and 550

Administrative practice and procedure; Claims; Government employees; Law enforcement officers; Wages.

Office of Personnel Management.

Michael W. Hager,

Acting Director.

Accordingly, OPM is proposing to amend 5 CFR parts 531 and 550 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304 and 5305; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682 and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart B—Determining Rate of Basic Pay

2. In § 531.216, paragraphs (a), (c)(1), (c)(2)(i), (c)(2)(ii), (d)(1), and (d)(2)(i) are revised to read as follows:

§ 531.216 Setting pay when an employee moves from a Department of Defense or Coast Guard nonappropriated fund instrumentality.

(a) *General.* This section governs the setting of pay for an employee who moves to a GS position in the Department of Defense or the Coast Guard from a position in a nonappropriated fund instrumentality (NAFI) (as described in 5 U.S.C. 2105(c)) of the Department of Defense or the Coast Guard, respectively, without a break in service of more than 3 days. If an employee moves from a NAFI position to a GS position with a break of more than 3 days or moves from a NAFI position in the Department of Defense or the Coast Guard to a GS position outside of the Department of Defense or the Coast Guard, respectively, the employee has no special conversion rights and this section does not apply.

* * * * *

(c) * * * (1) For a Department of Defense or Coast Guard employee who moves voluntarily, without a break in service of more than 3 days, from a NAFI position in the Department of Defense or the Coast Guard to a GS position in the Department of Defense or the Coast Guard, respectively, the agency may set the employee's initial payable rate of basic pay at the lowest step rate in the highest applicable rate range currently in effect for the employee's GS position of record and official worksite which equals or exceeds the employee's NAFI highest previous rate of pay, or any lower step rate, except as provided in paragraph (c)(2) or (3) of this section. The employee's initial payable rate of basic pay may not exceed the maximum step rate (step 10).

(2) * * *

(i) Compare the NAFI highest previous rate to the highest applicable rate range currently in effect in the location where the employee was stationed while earning that rate. The highest applicable rate range is determined based on the pay schedules that would be applicable to the employee's current GS position of record if the employee were stationed in that location. Identify the lowest step rate in the highest applicable rate range that was equal to or exceeded the NAFI highest previous rate. If the NAFI highest previous rate is less than the range minimum, identify the minimum step rate (step 1). If the NAFI highest previous rate exceeds the range maximum, identify the maximum step rate (step 10).

(ii) Identify the step rate in the highest applicable rate range for the employee's current official worksite and position of record that corresponds to the step rate derived under paragraph (c)(2)(i) of this section. That corresponding rate is the maximum payable rate at which the agency may set the employee's pay

under this section, except as provided by paragraph (c)(3) of this section. The agency may set the employee's rate of basic pay at any step rate that does not exceed that maximum payable rate.

* * * * *

(d) * * * (1) For a Department of Defense or Coast Guard employee who is moved involuntarily (as defined in paragraph (d)(3) of this section), without a break in service of more than 3 days, from a NAFI position in the Department of Defense or the Coast Guard to a GS position with substantially the same duties in the Department of Defense or the Coast Guard, respectively, the employee is entitled to an initial payable rate of basic pay at the lowest step rate of the grade that is equal to or greater than the employee's rate of basic pay in the NAFI position immediately before the move. If the employee's former NAFI rate exceeds the range maximum, identify the maximum step rate (step 10).

(2) * * *

(i) The lowest step rate within the highest applicable rate range for the employee's GS position of record and official worksite that equals or exceeds the employee's NAFI highest previous rate, or any lower step rate (consistent with the method prescribed in paragraphs (c)(1) and (2) of this section);

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart K—Collection by Offset From Indebted Government Employees

3. The authority citation for subpart K of part 550 continues to read as follows:

Authority: 5 U.S.C. 5514; sec. 8(1) of E.O. 11609; redesignated in sec. 2–1 of E.O. 12107.

4. In § 550.1103, the definition of *agency* is revised to read as follows:

§ 550.1103 Definitions.

* * * * *

Agency means an executive department or agency; a military department; the United States Postal Service; the Postal Regulatory Commission; any nonappropriated fund instrumentality described in 5 U.S.C. 2105(c); the United States Senate; the United States House of Representatives; any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government; or a Government corporation. If an agency under this definition is a component of an agency, the broader definition of *agency* may be used in applying the provisions of 5 U.S.C. 5514(b) (concerning the authority to prescribe regulations).

* * * * *

[FR Doc. E8–19819 Filed 8–26–08; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2007–0152]

RIN 0579–AC82

Importation of Grapes from Chile Under a Systems Approach

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow fresh table grapes from Chile to be imported into the continental United States under a systems approach. Currently, as a condition of entry, all table grapes from Chile must be fumigated with methyl bromide as a risk-mitigation measure for *Brevipalpus chilensis.* Under this proposal, we would allow a combination of risk-mitigation measures, or systems approach, to be employed in lieu of methyl bromide fumigation. The systems approach would provide an alternative to methyl bromide while continuing to provide protection against the introduction of quarantine pests into the United States.

DATES: We will consider all comments that we receive on or before October 27, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-01* 52 to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2007–0152, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8,4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0152.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Assistant Branch Chief, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–47, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Currently, the importation of table grapes (*Vitis vinifera* L.) from Chile into the United States is authorized under § 319.56–4 of the regulations. Accordingly, Chilean table grapes are listed in the Plant Protection and Quarantine Fresh Fruits and Vegetables Import Manual, which may be viewed on the Internet at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/fv.pdf*, as a commodity approved for entry into the United States, subject to certain conditions.

The regulations in 7 CFR part 305, ''Phytosanitary Treatments,'' specify the treatment schedules that must be used on certain commodities prior to their importation or entry into the United States. Currently, in § 305.2 of these regulations, paragraph (i) identifies several different treatment schedules for use on table grapes from Chile as risk-mitigation measures for *Brevipalpus chilensis* mites and/or Mediterranean fruit fly (*Ceratitis capitata,* referred to below as Medfly), depending on the area of Chile from which the fruit originates. If the grapes originate from an area of Chile in which both pests are known to exist, the grapes must be treated with methyl bromide for *B. chilensis* followed by cold treatment for Medfly. If the table grapes originate from an area of Chile that the Animal and Plant Health Inspection Service (APHIS) has declared a pest-free area for Medfly in

accordance with the provisions of § 319.56–5 of the regulations, only the methyl bromide treatment is required.

Under a systems approach, a set of phytosanitary conditions, at least two of which have an independent effect in mitigating the pest risk associated with the movement of commodities, is specified, whereby fruits and vegetables may be imported into the United States from countries that are not free of certain plant pests. In 2002, the Servicio Agricola y Ganadero, the national plant protection organization (NPPO) of Chile, proposed a systems approach to be used in lieu of the methyl bromide fumigation of table grapes for *B. chilensis* mites. The approach consisted of the registration of production sites with the NPPO, the certification of production sites by the NPPO as having a low prevalence of *B. chilensis* mites, joint inspection of samples from these production sites in Chile by the NPPO and APHIS, issuance of phytosanitary certificates, and inspection of a sample of the grapes at a port of entry. A similar approach is currently in use for clementines, mandarins, and tangerines from Chile, under our regulations in § 319.56–38.

During the 2002/2003 growing season, with the cooperation of APHIS, Chile's NPPO conducted a pilot program to determine whether the approach could be utilized as an effective mitigation measure against *B. chilensis* mites to prevent the introduction of that pest in grapes imported into the continental United States from Chile. The pilot program suggested that the approach proposed by Chile's NPPO could be used for this commodity.

Therefore, in October 2006, APHIS received a request from the NPPO of Chile to allow the importation of Chilean table grapes into the continental United States under a systems approach substantively similar to the one that had been used during the pilot program. In response to this request, we evaluated the approach to determine whether it was sufficient to mitigate its target pest. While our evaluation was still underway, the Chilean NPPO conducted a second pilot program, again with APHIS' cooperation, during the 2006/2007 growing season. This program again suggested that the approach proposed by the Chilean NPPO was efficacious.

As a result of our evaluation, and based upon the findings of these pilot programs, we prepared a commodity import evaluation document (CIED) for Chilean table grapes prepared for export under a systems approach. Copies of the CIED may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The CIED, entitled ''Systems Approach for Grapes *Vitis Vinifera* L. Imported from Chile into the Continental United States,'' examines a systems approach substantively similar to the approach employed by Chile during the pilot programs and concludes that those phytosanitary measures would effectively remove *B. chilensis* mites from the importation pathway for Chilean table grapes. Based on the information contained in the CIED, we are proposing to amend the regulations to allow the importation of table grapes from Chile into the continental United States under a systems approach. The systems approach, which would be set out in a new § 319.56–49, would comprise the following phytosanitary measures:

Commercial consignment. Only commercial consignments of grapes would be eligible for importation.

Production site registration. The production site where the fruit is grown would have to be registered with the NPPO of Chile. To register, the production site would have to provide Chile's NPPO with the following information: Grower, exporter, orchard, production site name (if this differs from the name of the orchard), region, township, province, locality, area planted to each variety, number of hectares/variety, and approximate date of harvest. Registration would have to be renewed annually.

Low prevalence production site certification. Between 1 and 30 days prior to harvest, random samples of fruit would have to be collected from each registered production site under the direction of Chile's NPPO. These samples would have to undergo a pest detection and evaluation method as follows: Each bunch of grapes, including fruit and rachis (spines), would have to be washed using a flushing method, placed in a 20 mesh sieve on top of a 200 mesh sieve, sprinkled with a liquid soap and water solution, washed with water at high pressure, and washed with water at low pressure. The process would then be repeated. The contents of the 200 mesh sieve would then be placed on a petri dish and analyzed for the presence of live *B. chilensis* mites. If a single live *B. chilensis* mite is found, the production site would not qualify for certification as a low prevalence production site and would be eligible to export fruit to the United States only if the fruit is fumigated with methyl bromide. Each production site would have only one opportunity per harvest season to qualify as a low prevalence production site, and certification of low prevalence would be valid for one harvest season only. The NPPO of Chile would present a list of certified production sites to APHIS.

We have determined that low prevalence production site certification will identify problem production sites and prevent shipment of fruit with *B. chilensis* mites from these sites. This certification process has been tested in Chile and been found successful in identifying areas with high and low populations of mites.

Post-harvest processing. After harvest, all damaged or diseased fruits would have to be culled at the packinghouse, and the remaining fruit would have to be packed into new, clean boxes, crates, or other packing containers approved by APHIS for fumigation with methyl bromide, should such fumigation become necessary.

Phytosanitary inspection. The fruit would have to be inspected in Chile at an APHIS approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile after the post-harvest processing. A biometric sample would have to be drawn and examined from each consignment. Fruit presented for inspection would have to be identified in the shipping documents accompanying each lot of fruit to specify the production site(s) in which the fruit was produced and the packing shed(s) in which the fruit was processed. This identification would have to be maintained until the fruit is released for entry into the United States. A biometric sample of boxes, crates, or other APHIS-approved packing containers from each consignment would have to be selected by the NPPO of Chile at a sampling rate that is sufficient to detect a 6 percent infestation rate with a 95 percent confidence level. Grapes and panicles from these boxes, crates, or other APHIS-approved packing containers would have to be visually inspected for quarantine pests, and a portion of the fruit would have to be washed with soapy water and the collected filtrate microscopically examined for *B. chilensis*. If a single live *B. chilensis* mite is found, the fruit would be eligible for importation into the United States only if it has been fumigated in Chile with methyl bromide under the supervision of APHIS personnel. When employed jointly, post-harvest processing, such as the culling of damaged fruit, and phytosanitary inspections, such as biometric sampling for *B. chilensis* mites, should remove

any remaining fruit that contains *B. chilensis* mites.

Phytosanitary certificate. Each consignment of grapes would have to be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration stating that the grapes in the consignment meet the conditions of § 319.56–49. Requiring a phytosanitary certificate ensures that the NPPO has inspected the fruit and certified that it meets the conditions for export to the continental United States. If, as a result of the inspections specified by the systems approach, a single live *B. chilensis* mite is discovered in a consignment of grapes, that consignment would be eligible for importation into the United States only if it was fumigated with methyl bromide in accordance with the treatment schedules already specified in the regulations. The production site from which the fruit originated would lose its certification as a low prevalence production site for the remainder of that shipping season, and all subsequent consignments from the site during that season would have to be fumigated with methyl bromide in order to be eligible for importation into the continental United States.

Because the systems approach is neither intended for nor effective in removing Medfly from the importation pathway for table grapes, grapes from an area of Chile not declared by APHIS to be free of Medfly would have to be cold treated according to schedule CT T107–a as a risk-mitigation measure for Medfly.

We also recognize that some producers would not be able to or would not wish to use the systems approach as a means for access to the U.S. market. Therefore, as an alternative mitigation measure, producers would be able to continue to use fumigation with methyl bromide in Chile or at the port of first arrival to the United States. An APHIS inspector would monitor the fumigation and prescribe such safeguards as might be necessary for unloading, handling, and transportation prior to fumigation. The final release of the fruit for entry into the United States would be conditioned upon compliance with prescribed safeguards and required treatment.

Finally, § 319.56–6 of the regulations states that, if APHIS personnel need to be physically present in an exporting country or region to facilitate the exportation of fruits or vegetables and APHIS services are to be funded by the NPPO of the exporting country or a private export group, then the NPPO or the export group must enter into a trust fund agreement with APHIS. In accordance with this section, we are proposing to require a trust fund agreement for the importation of table grapes from Chile into the United States.

Under the trust fund agreement, the NPPO of Chile or the private export group would have to pay in advance for all estimated costs that APHIS expects to incur in providing inspection services in Chile. These costs would include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing services. The agreement would have to require the NPPO of Chile or the private export group to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. The agreement would have to further specify that, if the deposit is insufficient to meet all costs incurred by APHIS, the NPPO of Chile or the private export group would deposit with APHIS, before the services would be completed, a certified or cashier's check for the amount of the remaining costs, as determined by APHIS. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the NPPO of the exporting country or region or a private export group, or held on account.

Requiring the payment of costs in advance is necessary to help defray the costs to APHIS of providing inspection and treatment monitoring services in Chile.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the potential effects of the proposed action on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining: (1) Whether allowing the importation of table grapes from Chile under a systems approach, instead of following fumigation with methyl bromide, will affect the cost to U.S. importers of Chilean table grapes; (2) the relative costs of the two means of treatment; and (3) whether applying the systems approach may influence the price of Chilean table grapes within the United States.

Currently, table grapes may be imported from Chile subject to fumigation with methyl bromide, and, depending on the region in Chile from which the grapes originate, cold treatment.[1] We are proposing to amend the regulations to allow the importation into the continental United States of fresh table grapes from Chile under a systems approach in lieu of treatment with methyl bromide.

As part of this systems approach, we would require production site registration, low prevalence production site certification, post-harvest processing, phytosanitary inspection, and issuance of phytosanitary certificates. This action would allow Chilean exporters to ship fresh table grapes to the continental United States under a process other than fumigation with methyl bromide, while continuing to provide protection against the introduction of quarantine pests into the United States.

The Regulatory Flexibility Act requires agencies to specifically consider the economic effects of their rules on small entities. The Small Business Administration (SBA) has established size criteria based on the North American Industry Classification System (NAICS) to determine which economic entities meet the definition of a small firm. The proposed rule may affect domestic producers of fresh grapes and wholesalers who import fresh table grapes. Businesses producing fresh grapes are classified in the North American Industry Classification System (NAICS) within the category of grape farming without making wine.

The small business size standard for grape farming without making wine, as identified by the SBA based upon NAICS code 11 1332, is $750,000 or less in annual receipts.[2] While the available data do not provide the number of U.S. grape-producing entities according to size distribution as it relates to annual receipts, it is reasonable to assume that the majority of the operations are considered small businesses by SBA standards. According to the 2002 Census of Agriculture, there were at least 23,856 grape farms in the United

[1] Chile is divided into 15 administrative regions, of which 12 have been designated by APHIS as Medfly-free, in accordance with the provisions of § 319.56–5 of the regulations.

[2] Based upon 2002 Census of Agriculture-State Data and the "Small Business Size Standards by NAICS Industry," Code of Federal Regulations, Title 13, Chapter I.

States in 2002, and at least 937,200 acres of arable land on which grapes were grown (see table 1). It is estimated that approximately 93 percent of these 23,856 grape farms had annual sales in 2002 of $500,000 or less, and are therefore considered to be small entities by SBA standards.

TABLE 1—2006/2007 [1] STATE-LEVEL PRODUCTION OF GRAPES FOR THE FRESH MARKET IN THE UNITED STATES

State	Production (metric tons) [2]	Number of acres
California	703,975 (99.3%)	800,000 (86%)
Michigan	91	14,200
Missouri	64	1,300
New York	2,722	31,000
North Carolina	163	1,300
Ohio	91	2,200
Pennsylvania	272	12,200
Texas	91	2,900
Sum of the eight States	707,469 (99.8%)	866,400 (92.5%)
Other States	1,561	70,800
United States	709,030	937,200

[1] Based upon 2002 Census of Agriculture-State Data and the ''Small Business Size Standards by NAICS Industry,'' Code of Federal Regulations, Title 13, Chapter I.
[2] Quantities have been converted from short tons to metric tons using a conversion factor of 1 short ton = 0.9072 metric tons.

The United States currently ranks fifth in the world's production of grapes, behind China, Turkey, Italy, and Chile. However, U.S. production of grapes for fresh consumption increased by less than 1 percent on average over the last 17 years. Currently, only one-tenth of all grapes produced in the United States are consumed as table grapes, with the remainder utilized by the processing sector. U.S. fresh market grape production has averaged a little over 790,000 metric tons annually from the 2000/2001 growing season to the 2006/2007 season, generating an average of over $600 million at the farm level annually.

With respect to the consumption of fresh grapes, the United States currently ranks third worldwide, following China and Turkey. U.S. domestic consumption of fresh grapes from 2000/2001 to 2006/2007 was approximately 907 metric tons per year, on average. During that period, per capita U.S. consumption of fresh grapes averaged 6.2 pounds per year. This level of consumption made fresh grapes the fourth-most consumed fruit within the United States during that time period.

The United States became a net importer of fresh table grapes in the mid-1980s and has remained so since that time. The disparity between imports and exports has widened in recent years. For example, in 2006, the United States exported 290,089 metric tons of fresh table grapes, and imported 603,218 metric tons. Accordingly, the United States has increasingly relied on imported table grapes to fulfill domestic demand. During the 1980s, imports accounted on average for 28 percent of fresh grapes available for domestic consumption. Between the 2000/2001 and 2006/2007 growing seasons, this share rose to more than 50 percent.

Domestically produced fresh grapes are usually shipped to the U.S. market between the months of May and November. During the U.S. off-season (December through April), domestically produced supplies are supplemented by imports. Chile is the primary exporter of fresh table grapes to the United States, accounting for approximately 75 percent of total U.S. imports of this commodity. The presence of imported grapes within the domestic market during the U.S. off-season allows for year-round availability of the product and promotes domestic consumption.

Most grape production in Chile takes place during U.S. winter months, when there is little or no fresh grape production within the United States with which to compete. In addition, we do not expect that the proposed rule would affect the processing grape industry in the United States because of the separate markets for table grapes and processing grapes.

The alternative to this proposed rule was to make no changes to the regulations. After consideration, we rejected this alternative, insofar as we evaluated the proposed systems approach and determined it to be effective in removing *B. chilensis* mites from the importation pathway for Chilean table grapes.

This proposed rule contains various recordkeeping and reporting requirements. These requirements are described in this document under the heading ''Paperwork Reduction Act.''

Executive Order 12988

This proposed rule would allow table grapes to be imported from Chile under a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding table grapes imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If the proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval from the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2007–0152. Please send a copy of your comments to: (1) Docket No. APHIS–2007–0152, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street

and Independence Ave SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

The regulations in ''Subpart-Fruit and Vegetables'' (7 CFR 319.56 through 319.56–47, referred to as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States. Currently, the importation of table grapes (*Vitis vinfera* L.) from Chile into the United States is authorized under § 319.56–4 of the regulations.

APHIS is proposing to amend the fruits and vegetables regulations to allow fresh table grapes from Chile to be imported into the continental United States under a systems approach. Currently, as a condition of entry, all table grapes from Chile must be fumigated with methyl bromide as a risk mitigation measure for *Brevipalpus chilensis*.

Under this proposal, APHIS would allow a combination of risk-mitigation measures, or systems approach, to be employed in lieu of methyl bromide fumigation. The systems approach would provide an alternative to methyl bromide while continuing to provide protection against the introduction of quarantine pests into the United States.

Allowing the importation of grapes into the United States from Chile will require information collection activities such as production site registration, phytosanitary certificates, and phytosanitary inspection.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.5614754 hours per response.

Respondents: Growers of grapes, NPPOs.

Estimated annual number of respondents: 54.

Estimated annual number of responses per respondent: 81.3333.

Estimated annual number of responses: 4,392.

Estimated total annual burden on respondents: 2,466 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance 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. For information pertinent to the E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. A new § 319.56–49 is added to read as follows:

§ 319.56–49 Grapes from Chile.

Table grapes (*Vitis vinifera* L.) may be imported into United States from Chile only under the following conditions:

(a) The fruit must be imported in commercial consignments and accompanied by a permit issued in accordance with § 319.56–3(b).

(b) If the fruit is produced in an area of Chile where Mediterranean fruit fly (*Ceratitis capitata*) is known to occur, the fruit must be cold treated in accordance with part 305 of this chapter. Fruit for which cold treatment is required must be accompanied by documentation indicating that the cold treatment was initiated in Chile (a PPQ Form 203 or its equivalent may be used for this purpose).

(c) The fruit must either be produced and shipped under the systems approach described in paragraph (d) of this section or fumigated in accordance with paragraph (e) of this section.

(d) *Systems approach.* The fruit may be imported without fumigation for *Brevipalpus chilensis* into the continental United States (Alaska and the lower 48 States) if it meets the following conditions:

(1) *Production site registration.* The production site where the fruit is grown must be registered with the national plant protection organization (NPPO) of Chile. To register, the production site must provide Chile's NPPO with the following information: Grower, exporter, orchard, production site name (if this differs from the name of the orchard), region, township, province, locality, area planted to each variety, number of hectares/variety, and approximate date of harvest. Registration must be renewed annually.

(2) *Low prevalence production site certification.* Between 1 and 30 days prior to harvest, random samples of fruit must be collected from each registered production site under the direction of Chile's NPPO. These samples must undergo a pest detection and evaluation method as follows: Each bunch of grapes, including fruit and rachis (spines), must be washed using a flushing method, placed in a 20 mesh sieve on top of a 200 mesh sieve, sprinkled with a liquid soap and water solution, washed with water at high pressure, and washed with water at low pressure. The process must then be repeated. The contents of the 200 mesh sieve must then be placed on a petri dish and analyzed for the presence of live *B. chilensis* mites. If a single live *B. chilensis* mite is found, the production site will not qualify for certification as a low prevalence production site and will be eligible to export fruit to the United States only if the fruit is fumigated in accordance with paragraph (e) of this section. Each production site may have only one opportunity per harvest season to qualify as a low prevalence production site, and certification of low prevalence will be valid for one harvest season only. The

NPPO of Chile will present a list of certified production sites to APHIS.

(3) *Post-harvest processing.* After harvest, all damaged or diseased fruits must be culled at the packinghouse, and the remaining fruit must be packed into new, clean boxes, crates, or other APHIS-approved packing containers for fumigation with methyl bromide in accordance with paragraph (e) of this section, should such fumigation become necessary.

(4) *Phytosanitary inspection.* The fruit must be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile after the post-harvest processing. A biometric sample must be drawn and examined from each consignment. Grapes in any consignment may be shipped to the continental United States only if the consignment passes inspection as follows:

(i) Fruit presented for inspection must be identified in the shipping documents accompanying each lot of fruit to specify the production site(s) in which the fruit was produced and the packing shed(s) in which the fruit was processed. This identification must be maintained until the fruit is released for entry into the United States.

(ii) A biometric sample of boxes, crates, or other APHIS-approved packing containers from each consignment will be selected and the fruit from these boxes, crates, or other APHIS-approved packing containers will be visually inspected for quarantine pests, and a portion of the fruit will be washed with soapy water and the collected filtrate will be microscopically examined for *B. chilensis.* If a single live *B. chilensis* mite is found, the fruit will be eligible for importation into the United States only if it has been fumigated in Chile in accordance with paragraph (e) of this section. The production site will be suspended from the low prevalence certification program and all subsequent lots of fruit from the production site of origin will be required to be fumigated in order to be eligible for entry into the United States for the remainder of the shipping season.

(5) *Phytosanitary certificates.* Each consignment of grapes must be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration stating that the grapes in the consignment meet the conditions of § 319.56–49.

(e) *Approved fumigation.* Grapes that do not meet the conditions of paragraph (d) of this section may be imported into the United States if the fruit is fumigated either in Chile or at the port of first arrival to the United States with methyl bromide for *B. chilensis* in accordance with part 305 of this chapter. An APHIS inspector will monitor the fumigation of the fruit and will prescribe such safeguards as may be necessary for unloading, handling, and transportation prior to fumigation. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(f) *Trust fund agreement.* Grapes may be imported into the United States under this section only if the NPPO of Chile or a private export group has entered into a trust fund agreement with APHIS in accordance with § 319.56–6.

Done in Washington, DC, this 22nd day of August 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–19875 Filed 8–26–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. AMS–FV–08–0016; FV08–905–2 PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Temporary Suspension of Order Provisions Regarding Continuance Referenda

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on a temporary suspension of the order provision requiring periodic continuance referenda under the Florida citrus marketing order (order). This rule would suspend for the current cycle the order requirement that a continuance referendum be held every sixth year. The suspension is intended to minimize the confusion that could result from the overlap of the continuance referendum and another referendum associated with the amendatory process. It would also allow producers time to evaluate the results of the amendatory process before voting on the continuance of the order.

DATES: Comments must be received by September 26, 2008.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or e-mail: *Doris.Jamieson@usda.gov* or *Christian.Nissen@usda.gov.*

Small businesses may request information on complying with this regulation 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: This proposal is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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 States 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 not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on a temporary suspension of the order provision requiring periodic continuance referenda under the order. This rule would suspend for the current 6-year cycle the order requirement that a continuance referendum be held every sixth year. The suspension is intended to minimize the confusion that could result from the overlap of the continuance referendum and another referendum associated with the amendatory process. It would also allow producers time to evaluate the results of the amendatory process before voting on the continuance of the order. The Citrus Administrative Committee (Committee) unanimously recommended this action at a meeting on January 22, 2008.

Section 905.83(c) requires the Secretary to conduct a referendum every sixth year to ascertain whether continuance of the order is favored by producers. It has been six years since the last continuance referendum, and absent a temporary suspension of this provision, the periodic continuance referendum would need to be scheduled and conducted this year. Additionally, AMS is currently considering proposed amendments to the order. The amendment process potentially entails conducting a referendum to ascertain whether the proposed amendments are favored by producers.

The Committee is concerned that the overlap of the two processes could confuse industry members and could diminish voter participation in one or both of the referenda. The Committee manager and Committee members have attended several industry meetings and discussions regarding the proposed amendments and the amendatory process, including making the industry aware of the potential producer referendum and the opportunity to vote on the proposed amendments. Without the suspension of the continuance referendum, growers could be receiving the continuance referendum ballot in the middle of the amendatory process. As such, the timing of the ballot's receipt could cause some confusion among growers as to the scope and purpose of the ballot. Further, growers receiving the ballot for the amendatory process shortly after receiving the continuance referendum ballot might disregard the second ballot. This could negatively affect the voting process and voter participation.

Consequently, the Committee recommended suspending the continuance referendum for the current cycle to avoid any potential confusion. This action would isolate the amendment process and its referendum from the periodic continuance referendum so that producers would be better informed regarding the issues each ballot represents and would be more likely to participate in both referenda. The Committee expects that the suspension of this cycle for the continuance referendum would minimize confusion and maximize producer participation.

In addition, the temporary suspension of the continuance referendum would allow the industry time to operate under any order changes that may be made as a result of the current amendatory process. This would give the industry an opportunity to evaluate the effects of any amendatory changes prior to voting on the continuance of the order. However, USDA believes that a continuous referendum should be held in the interim, rather than waiting another full six year cycle. As such, with the amendatory process scheduled to be completed in 2009, USDA plans to conduct the next continuance referendum in 2010. The continuance referendum cycle would then resume as provided in § 905.83(c) in 2014.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 55 handlers subject to regulation under the marketing order and approximately 8,000 producers of oranges, grapefruit, tangerines, and tangelos in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida citrus during the 2006–07 season was approximately $12.25 per 4/5-bushel carton, and total fresh shipments were approximately 36.8 million cartons. Using the average f.o.b. price and shipment data, at least 55 percent of the Florida citrus handlers could be considered small businesses under SBA's definition. In addition, based on production and producer prices reported by the National Agricultural Statistics Service, and the total number of Florida citrus producers, the average annual producer revenue is less than $750,000. Therefore, the majority of handlers and producers of Florida citrus may be classified as small entities.

This rule would suspend for the current cycle the order requirement that a continuance referendum be held every sixth year. The suspension is intended to minimize the confusion that could result from the overlap of the continuance referendum and a referendum associated with the amendatory processes. It would also allow producers time to evaluate the results of the amendatory process before voting on continuance of the order. This rule would temporarily suspend the provisions of § 905.83(c) which specify the continuance referendum requirements. The Act authorizes suspension of order provisions.

One alternative to this action would be to conduct the continuance referendum as scheduled. However, if the continuance referendum was conducted, the referendum period could overlap with an amendment referendum, which could cause some voter confusion. The Committee was concerned that the confusion would lead to decreased grower participation. Further, the Committee believes that growers need time to evaluate the effectiveness of the proposed amendments before voting on continuation of the order. Therefore, this alternative was rejected.

This rule would temporarily suspend the provisions of § 905.83(c) which specify the continuance referendum requirements. Accordingly, this rule would not impose any additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. 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 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.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the January 22, 2008, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule should be implemented as soon as possible since the marketing order continuance referendum is scheduled for the current season. Further, the Committee discussed this issue at a public meeting and interested parties had an opportunity to provide input. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 905.83 Termination.

2. Amend paragraph (c) of § 905.83 by:

a. Designating the first sentence ''The Secretary shall conduct a referendum six years after the effective date of this paragraph and every sixth year thereafter to ascertain whether continuance of this part is favored by producers'' as paragraph (c)(1) and the next two sentences as paragraph (c)(2).

b. Newly designated paragraph (c)(1) is temporarily suspended for 2008.

Dated: August 20, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–19749 Filed 8–26–08; 8:45 am]

BILLING CODE 3410–02–P

POSTAL SERVICE

39 CFR Part 111

New Automation Requirements for Detached Address Labels

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes revisions to the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) for detached address labels (DALs). To increase efficiency and reduce handling costs, we propose that DALs accompanying saturation mailings of Periodicals or Standard Mail® flats must be automation-compatible and have a correct delivery point POSTNET™ barcode or Intelligent Mail® barcode with an 11-digit routing code. This proposal would not apply to DALs with simplified addresses.

To be consistent with the current requirement for return addresses, we are proposing to add DALs to DMM 602.1.5.3, *Required Use of Return Address.*

DATES: We must receive your comments on or before September 26, 2008.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 3436, Washington, DC 20260–3436. You may inspect and photocopy all written comments, Monday through Friday between 9 a.m. and 4 p.m., USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor N, Washington, DC. Do not submit comments via fax or e-mail.

FOR FURTHER INFORMATION CONTACT: Monica Grein at 202–268–8411.

SUPPLEMENTARY INFORMATION: On June 7, 2007, at the request of many mailers, we revised our standards to allow advertising on the front of DALs provided that the DALs were barcoded and automation-compatible (see Postal Bulletin 22208 and DMM 602.4.2.5.b). This change provided mailers with the ability to offset the DAL surcharge, implemented in May 2007, with new opportunities for advertising revenue.

Current mailing standards do not require DALs that accompany saturation mailings of Periodicals or Standard Mail flats to be automation-compatible and barcoded unless advertising appears on the front. Automation-compatible and barcoded DALs may be processed with letter mail in delivery point sequence (DPS) order, thereby eliminating the need for carriers to manually case the labels.

Except for DALs prepared with simplified addresses, our proposal would require that all DALs accompanying saturation mailings of Periodicals or Standard Mail flats be automation-compatible and have a correct delivery point POSTNET barcode or Intelligent Mail barcode with an 11-digit routing code.

We propose to allow mailers 90 days after the publication date of the **Federal Register** final rule to comply with the new standards for DALs, to afford mailers time to exhaust existing stock. We suggest that mailers work with their local mailpiece design analyst (MDA) to ensure that any new DALs accompanying saturation mailings of Periodicals or Standard Mail flats meet the new standards.

Ninety days from the publication of the **Federal Register** final rule, saturation flats mailings presented with DALs that are not automation-compatible and barcoded will not qualify for saturation prices but may be entered at the basic carrier route price for Periodicals mailings or the basic Enhanced Carrier Route price for Standard Mail mailings.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S. C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

1.0 Elements of Addressing

* * * * *

1.5 Return Addresses

* * * * *

1.5.3 Required Use of Return Addresses

The sender's domestic return address must appear legibly on:

[Add new item m to 1.5.3 as follows:]

* * * * *

m. Detached addressed labels (DALs).

* * * * *

4.0 Detached Address Labels (DALs)

4.1 DALs Use

* * * * *

[Revise text of 4.1.2 to require that DALs accompanying saturation mailings of Periodicals or Standard Mail flats be automation-compatible as follows:]

4.1.2 Periodicals or Standard Mail Flats Saturation Mailings

Saturation mailings of unaddressed Periodicals or Standard Mail flats may be mailed with detached address labels (DALs). DALs accompanying saturation mailings of Periodicals or Standard Mail flats must be automation-compatible under 201.3.0. For this standard, saturation mailing means a mailing sent to at least 75% of the total addresses on a carrier route or 90% of the residential addresses on a route, whichever is less. Deliveries are not required to every carrier route of a delivery unit.

* * * * *

4.2 Label Preparation

4.2.1 Label Construction

Each DAL must be made of paper or cardboard stock that is not folded, perforated, or creased, and that meets these measurements:

* * * * *

[Revise item c of 4.2.1 and add new items d and e as follows:]

c. At least 0.007 inch thick except under 4.2.1.d.

d. If more than 4¼ inches high or more than 6 inches in length, must be at least 0.009 inch thick.

e. Must have an aspect ratio (length divided by height) between 1.3 to 2.5, inclusive.

4.2.2 Addressing

[Revise text of 4.2.2 to require a POSTNET or Intelligent Mail barcode with a delivery point routing code as follows:]

The address for each item must be placed on a DAL, parallel to the longest dimension of the DAL, and must not appear on the item it accompanies. The DAL must contain the recipient's delivery address and the mailer's return address. A ZIP+4 code or 5-digit ZIP code is required unless a simplified address format is used. DALs that accompany saturation mailings of Periodicals or Standard Mail flats must include a correct delivery point POSTNET barcode or Intelligent Mail barcode with an 11-digit routing code (see 708.4) except when using a simplified address.

* * * * *

4.2.5 Other Information

In addition to the information described in 4.2.2 and 4.2.4 and an indicium of postage payment, only the following may appear on the front of a DAL:

* * * * *

b. Advertising, under the following conditions:

[Delete item 1 and renumber current items 2 and 3 as new items 1 and 2.]

* * * * *

We will publish an appropriate amendment to 39 CFR 111 to reflect these changes if our proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E8–19803 Filed 8–26–08; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 071102640–8952–01]

RIN 0648–AQ63

Magnuson-Stevens Act Provisions; National Standard Guidelines

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

ACTION: Proposed rule; withdrawal.

SUMMARY: NMFS withdraws a proposed rule for revisions to National Standard 1 (NS1) guidelines, which was published on June 22, 2005. Instead of going forward with a final rule directly resulting from the 2005 proposed rule, NMFS published a new proposed rule for the NS1 guidelines in the **Federal Register** on June 9, 2008, to address new provisions enacted in 2007 in the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). Because of new requirements for annual catch limits (ACLs) and accountability measures (AMs), among other things, NMFS decided that it was better to proceed with a new proposed rule rather than try to revise a 3–year old action that preceded the MSRA. The new proposed rule provides guidance on ACLs and AMs and other requirements related to overfishing and rebuilding overfished stocks in the National Standard 1 (NS1) guidelines.

DATES: This proposed rule is withdrawn on August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Mark R. Millikin, Senior Fishery Management Specialist, 301–713–2341, or via e-mail *mark.millikin@noaa.gov*.

SUPPLEMENTARY INFORMATION: Section 301(a) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that any fishery management plan (FMP) prepared and any regulation promulgated to implement such a plan shall be consistent with the ten national standards described in that section. Section 301(b) states that the Secretary of Commerce should establish advisory guidelines (which shall not have the force and effect of law) based on the national standards to assist in development of FMPs.

The guidelines for national standards of the Magnuson-Stevens Act were last revised through a final rule published in the **Federal Register** on May 1, 1998 (63

FR 24212), which brought them into conformance with the Sustainable Fisheries Act of 1996. The May 1998 final rule revised the guidelines for National Standards 1 (optimum yield), 2 (scientific information), 4 (allocations), 5 (efficiency), and 7 (costs and benefits) and added new guidelines for National Standards 8 (communities), 9 (bycatch), and 10 (safety of life at sea).

National Standard 1 (NS1) states ''Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.'' NMFS considered revising the NS1 guidelines when it published an advance notice of proposed rulemaking in 2003 (68 FR 7492, February 14, 2003), and a proposed rule in 2005 (70 FR 36240, June 22, 2005). NMFS received over 250,000 comments. NMFS reviewed all of the comments, and the majority consisted of one of ten different form letters, expressing concern that: (1) Overfishing is occurring for many stocks, (2) many fish stocks are overfished, (3) oceans and fish stocks are in trouble, and (4) at the rate fish stocks are being depleted, there could be severe impacts on future generations of people who enjoy eating fish. Almost all commenters stated that overfishing should be ended immediately. NMFS decided not to publish a final rule directly related to the 2005 proposed rule when it became clear that Congress was preparing an amendment to the Magnuson-Stevens Act that seemed likely to revise provisions related to overfishing and rebuilding overfished stocks.

On January 12, 2007, President Bush signed into law the MSRA. MSRA revised the Magnuson-Stevens Act by adding section 303(a)(15), which requires that any FMP that is prepared by a regional fishery management council or the Secretary shall: ''establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.'' Because of this new requirement to use ACLs and AMs to end/prevent overfishing, NMFS published a proposed rule (73 FR 32526, June 9, 2008) emphasizing new recommendations and requirements related to ACLs and AMs, as well as other issues related to NS1 (especially related to rebuilding overfished fisheries and the concepts of maximum sustainable yield (MSY) and optimum yield (OY)). The 2008 proposed rule also contains guidance about four issues contained in the 2005 proposed rule. The issues covered in the 2005 proposed rule, that are reconsidered in the 2008 proposed rule include: (1) Guidance on how to determine the target time to rebuild a stock; (2) action to take at the end of a rebuilding plan if a stock is no longer overfished, but not rebuilt yet; (3) the definition of several components of MSY; and (4) exceptions to the requirement to prevent overfishing. The four issues listed above contain different wording in the 2008 proposed rule. The remaining issues in the 2005 proposed rule are not covered in the 2008 proposed rule. NMFS' priority is to develop guidance on ACLs and AMs and make other related changes in the NS1 guidelines as soon as possible, given the MSRA statutory requirements to use ACLs and AMs to end overfishing in 2010, and prevent overfishing beginning in 2011. Thus, NMFS' new proposed revisions to the NS1 guidelines published in the **Federal Register** on June 9, 2008 (73 FR 32526) focus on changes needed to address ACLs and AMs and other new MSRA requirements, and NMFS is withdrawing the 2005 proposed rule.

The proposed revisions contained in the 2005 proposed rule that are not addressed in the 2008 proposed rule are not critical to accomplishing the new MSRA requirements related to ending/preventing overfishing and rebuilding overfished stocks, and include:

- Renaming ''minimum stock size threshold'' as ''minimum biomass limit (B_{lim})'';
- Renaming ''maximum fishing mortality threshold (MFMT)'' as ''maximum fishing mortality limit'';
- Renaming ''overfished'' as ''depleted'';
- Specifying that FMPs may be revised so that species/stocks may be classified as ''core stocks'' or stocks falling within a ''stock assemblage'';
- Specifying that B_{lim} should equal one-half of the biomass that produces MSY (B_{msy}) as a default value and clarifying when exceptions greater than or less than the 1/2 B_{msy} value are appropriate for B_{lim};
- Revising the maximum rebuilding time horizon formula to remove the discontinuity that results from the formula in the current guidelines;
- Establishing a default value for the target time for rebuilding that equals a time value halfway between minimum time to rebuild (T_{min}) and maximum time to rebuild (T_{max});
- Using MFMT to determine when a stock is rebuilt if the stock's B_{msy} and T_{min} are not known;
- Establishing guidance for how to revise rebuilding plans when a rebuilding plan has not shown adequate progress as described under section 304(e)(7) of the Magnuson-Stevens Act; and
- Revising the current requirement to develop ''target'' (OY) control rules in addition to limit (MSY) control rules from ''may'' to ''must.''

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

Dated: August 21, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–19874 Filed 8–26–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 73, No. 167

Wednesday, August 27, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0090]

Notice of Request for Extension of Approval of an Information Collection; Importation of Peppers From the Republic of Korea

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of peppers from the Republic of Korea.

DATES: We will consider all comments that we receive on or before October 27, 2008.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2008–0090* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0090, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0090.

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

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

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of peppers from the Republic of Korea, contact Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734–8758. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Peppers From the Republic of Korea.

OMB Number: 0579–0282.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–47).

Under these regulations, peppers from the Republic of Korea are subject to certain conditions before entering the United States to prevent the introduction of plant pests into the United States. The regulations include requirements for greenhouse inspections by South Korean national plant quarantine service (NPQS) officials and the use of a phytosanitary certificate with a declaration by NPQS officials stating the peppers were grown in accordance with the regulations in 7 CFR 319.56–42 and found free of certain plant pests.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5065 hours per response.

Respondents: South Korean national plant quarantine service officials and growers of peppers from South Korea.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 304.

Estimated annual number of responses: 608.

Estimated total annual burden on respondents: 308 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 21st day of August 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–19861 Filed 8–26–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0079]

Fiscal Year 2009 Veterinary Diagnostics Services User Fees and Agricultural Quarantine and Inspection User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for certain veterinary diagnostics services and to fees charged for agricultural quarantine and inspection services that are provided in connection with certain commercial vessels, commercial trucks, loaded commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States. The purpose of this notice is to remind the public of the user fees for fiscal year 2009 (October 1, 2008, through September 30, 2009).

FOR FURTHER INFORMATION CONTACT: For information concerning veterinary diagnostic program operations, contact Dr. Elizabeth Lautner, Director, National Veterinary Services Laboratories, VS, APHIS, 1800 Dayton Avenue, Ames, IA 50010; (515) 663–7301.

For information on Agricultural Quarantine program operations, contact Mr. William E. Thomas, Director for Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1231; (301) 734–5214.

For information concerning user fee rate development, contact Mrs. Kris Caraher, Section Head, User Fees Section, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 55, Riverdale, MD20737–1232; (301) 734–0882.

SUPPLEMENTARY INFORMATION:

Veterinary Diagnostic Services User Fees

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services are contained in 9 CFR part 130 (referred to below as the regulations). These user fees are authorized by section 2509(c) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a), which provides that the Secretary of Agriculture may, among other things, prescribe regulations and collect fees to recover the costs of veterinary diagnostics relating to the control and eradication of communicable diseases of livestock and poultry within the United States.

In a final rule published in the **Federal Register** on December 19, 2007 (72 FR 71744–71750, Docket No. APHIS–2006–0161), and effective January 18, 2008, we established, for fiscal years 2008 through 2012 and beyond, user fees for certain veterinary diagnostic services, including certain diagnostic tests, reagents, and other veterinary diagnostic materials and services. Veterinary diagnostics is the work performed in a laboratory to determine whether a disease-causing organism or chemical agent is present in body tissues or cells and, if so, to identify those organisms or agents. Services in this category include: (1) Performing identification, serology, and pathobiology tests and providing diagnostic reagents and other veterinary diagnostic materials and services for the National Veterinary Services Laboratory (NVSL) in Ames, IA; and (2) performing laboratory tests and providing reagents and other veterinary diagnostic materials and services at the NVSL Foreign Animal Disease Diagnostic Laboratory (NVSL FADDL) in Greenport, NY.

APHIS veterinary diagnostic user fees fall into six categories:

(1) Laboratory tests, reagents, and other veterinary diagnostic services performed at NVSL FADDL;

(2) Laboratory tests performed as part of isolation and identification testing at NVSL in Ames or other authorized sites;

(3) Laboratory tests performed as part of serology testing at NVSL in Ames or other authorized sites;

(4) Laboratory tests performed at the pathobiology laboratory at NVSL in Ames or other authorized sites;

(5) Diagnostic reagents produced at NVSL in Ames or other authorized sites; and

(6) Other veterinary diagnostic services or materials provided at NVSL in Ames.

As specified in § 130.15(a), the user fees for bacteriology isolation and identification tests performed at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Test	Unit	User fee
Bacterial identification, automated	Isolate	$54.00
Bacterial identification, non-automated	Isolate	92.00
Bacterial isolation	Sample	37.00
Bacterial serotyping, all other	Isolate	56.00
Bacterial serotyping, Pasteurella multocida	Isolate	19.00
Bacterial serotyping, Salmonella	Isolate	37.00
Bacterial toxin typing	Isolate	123.00
Bacteriology requiring special characterization	Test	94.00
DNA fingerprinting	Test	61.00
DNA probe	Test	85.00
Fluorescent antibody	Test	19.00
Mycobacterium identification (biochemical)	Isolate	117.00
Mycobacterium identification (gas chromatography)	Procedure	99.00
Mycobacterium isolation, animal inoculations	Submission	852.00
Mycobacterium isolation, all other	Submission	154.00
Mycobacterium paratuberculosis isolation	Submission	74.00
Phage typing, all other	Isolate	43.00
Phage typing, Salmonella enteritidis	Isolate	24.00

As specified in § 130.15(b), the user fees for virology identification tests performed at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Test	Unit	User fee
Fluorescent antibody tissue section	Test	$30.00
Virus isolation	Test	49.00

As specified in § 130.16(a), the user fees for bacteriology serology tests performed at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Test	Unit	User fee
Brucella ring (BRT)	Test	$37.00
Brucella ring, heat inactivated (HIRT)	Test	37.00
Brucella ring, serial (Serial BRT)	Test	56.00
Buffered acidified plate antigen presumptive	Test	7.25
Card	Test	4.00
Complement fixation	Test	17.00
Enzyme linked immunosorbent assay	Test	17.00
Indirect fluorescent antibody	Test	15.00
Microscopic agglutination—includes up to 5 serovars	Sample	24.00
Microscopic agglutination—each serovar in excess of 5 serovars	Sample	4.50
Particle concentration fluorescent immunoassay (PCFIA)	Test	37.00
Plate	Test	7.25
Rapid automated presumptive	Test	7.00
Rivanol	Test	7.25
Tube agglutination	Test	7.25

As specified in § 130.16(b), the user fees for virology serology tests performed at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Test	Unit	User fee
Agar gel immunodiffusion	Test	$17.00
Complement fixation	Test	17.00
Enzyme linked immunosorbent assay	Test	17.00
Hemagglutination inhibition	Test	15.00
Indirect fluorescent antibody	Test	15.00
Latex agglutination	Test	17.00
Peroxidase linked antibody	Test	16.00
Plaque reduction neutralization	Test	18.00
Rabies fluorescent antibody neutralization	Test	46.00
Virus neutralization	Test	13.00

As specified in § 130.17(a), the user fees for veterinary diagnostic tests performed at the Pathobiology Laboratory at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Test	Unit	User fee
Aflatoxin quantitation	Test	$31.00
Aflatoxin screen	Test	29.00
Agar gel immunodiffusion spp. identification	Test	13.00
Antibiotic (bioautography) quantitation	Test	67.00
Antibiotic (bioautography) screen	Test	122.00
Antibiotic inhibition	Test	67.00
Arsenic	Test	18.00
Ergot alkaloid screen	Test	67.00
Ergot alkaloid confirmation	Test	88.00
Feed microscopy	Test	67.00
Fumonisin only	Test	38.00
Gossypol	Test	100.00
Mercury	Test	148.00
Metals screen	Test	45.00
Metals single element confirmation	Test	13.00
Mycotoxin: aflatoxin-liver	Test	122.00
Mycotoxin screen	Test	49.00
Nitrate/nitrite	Test	67.00
Organic compound confirmation	Test	90.00
Organic compound screen	Test	155.00
Parasitology	Test	29.00

Test	Unit	User fee
Pesticide quantitation	Test	135.00
Pesticide screen	Test	62.00
pH	Test	27.00
Plate cylinder	Test	100.00
Selenium	Test	45.00
Silicate/carbonate disinfectant	Test	67.00
Temperature disks	Test	133.00
Toxicant quantitation, other	Test	112.00
Toxicant screen, other	Test	33.00
Vomitoxin only	Test	54.00
Water activity	Test	33.00
Zearaleone quantitation	Test	54.00
Zearaleone screen	Test	29.00

As specified in § 130.18(a), the user fees for bacteriology reagents produced by the Diagnostic Bacteriology Laboratory at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Reagent	Unit	User fee
Anaplasma card test antigen	2 mL	$97.00
Anaplasma card test kit without antigen	Kit	130.00
Anaplasma CF antigen	2 mL	46.00
Anaplasma stabilate	4.5 mL	178.00
Avian origin bacterial antiserums	1 mL	49.00
Bacterial agglutinating antigens other than brucella and salmonella pullorum	5 mL	55.00
Bacterial conjugates	1 mL	99.00
Bacterial disease CF antigens, all other	1 mL	30.00
Bacterial ELISA antigens	1 mL	30.00
Bacterial or protozoal antiserums, all other	1 mL	61.00
Bacterial reagent culture [1]	Culture	74.00
Bacterial reference culture [2]	Culture	233.00
Bacteriophage reference culture	Culture	176.00
Bovine serum factor	1 mL	18.00
Brucella abortus CF antigen	60 mL	154.00
Brucella agglutination antigens, all other	60 mL	154.00
Brucella buffered plate antigen	60 mL	176.00
Brucella canis tube antigen	25 mL	116.00
Brucella card test antigen (packaged)	Package	92.00
Brucella card test kit without antigen	Kit	114.00
Brucella cells	Gram	19.00
Brucella cells, dried	Pellet	6.00
Brucella ring test antigen	60 mL	246.00
Brucella rivanol solution	60 mL	30.00
Dourine CF antigen	1 mL	91.00
Dourine stabilate	4.5 mL	111.00
Equine and bovine origin babesia species antiserums	1 mL	130.00
Equine negative control CF antigen	1 mL	283.00
Flazo-orange	3 mL	13.00
Glanders CF antigen	1 mL	79.00
Hemoparasitic disease CF antigens, all other	1 mL	553.00
Leptospira transport medium	10 mL	4.50
Monoclonal antibody	1 mL	97.00
Mycobacterium spp. old tuberculin	1 mL	24.00
Mycobacterium spp. PPD	1 mL	19.00
Mycoplasma hemagglutination antigens	5 mL	184.00
Negative control serums	1 mL	19.00
Rabbit origin bacterial antiserum	1 mL	53.00
Salmonella pullorum microagglutination antigen	5 mL	16.00
Stabilates, all other	4.5 mL	690.00

[1] A reagent culture is a bacterial culture that has been subcultured one or more times after being tested for purity and identity. It is intended for use as a reagent with a diagnostic test such as the leptospiral agglutination test.

[2] A reference culture is a bacterial culture that has been thoroughly tested for purity and identity. It should be suitable as a master seed for future cultures.

As specified in § 130.18(b), the user fees for virology reagents produced by the Diagnostic Virology Laboratory at NVSL (excluding FADDL) or other authorized sites for fiscal year 2009 are as follows:

Reagent	Unit	User fee
Antigen, except avian influenza and chlamydia psittaci antigens, any	2 mL	$62.00

Reagent	Unit	User fee
Avian antiserum except avian influenza antiserum, any	2 mL	49.00
Avian influenza antigen, any	2 mL	34.00
Avian influenza antiserum, any	6 mL	105.00
Bovine or ovine serum, any	2 mL	130.00
Cell culture	Flask	154.00
Chlamydia psittaci spp. of origin monoclonal antibody panel	Panel	96.00
Conjugate, any	1 mL	75.00
Diluted positive control serum, any	2 mL	25.00
Equine antiserum, any	2 mL	46.00
Monoclonal antibody	1 mL	104.00
Other spp. antiserum, any	1 mL	52.00
Porcine antiserum, any	2 mL	108.00
Porcine tissue sets	Tissue set	157.00
Positive control tissues, all	2 cm^2 section	62.00
Rabbit origin antiserum	1 mL	53.00
Reference virus, any	0.6 mL	184.00
Viruses (except reference viruses), chlamydia psittaci agent or chlamydia psittaci antigen, any	0.6 mL	31.00

As specified in § 130.19(a), the user fees for other veterinary diagnostic services or materials available from NVSL (excluding FADDL) for fiscal year 2009 are as follows:

Service	Unit	User fee
Antimicrobial susceptibility test	Isolate	$107.00
Avian safety test	Test	4,090.00
Check tests, culture	Kit [1]	179.00
Check tests, serology	Kit [1]	369.00
Fetal bovine serum safety test	Verification	1,122.00
Hourly user fees [2]	Hour	104.00
Quarter hour	Quarter hour	26.00
Minimum		31.00
Manual, brucellosis culture	1 copy	117.00
Manual, tuberculosis culture (English or Spanish)	1 copy	176.00
Manual, Veterinary mycology	1 copy	176.00
Manuals or standard operating procedure (SOP), all other	1 copy	35.00
Manuals or SOP, per page	1 page	2.50
Training (school or technical assistance)	Per person per day	339.00

[1] Any reagents required for the check test will be charged separately.
[2] For veterinary diagnostic services for which there is no flat user fee the hourly rate user fee will be calculated for the actual time required to provide the service.

Agricultural Quarantine and Inspection Services User Fees

User fees to reimburse APHIS for the costs of providing inspection of certain commercial conveyances are found in 7 CFR part 354 (referred to below as the regulations). These user fees are authorized by Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a), which authorizes APHIS to collect user fees for agricultural quarantine and inspection (AQI) services.

In a final rule published in the **Federal Register** on December 9, 2004 (69 FR 71660–71683, Docket No. 04–042–1), and effective January 1, 2005, we established, for fiscal years 2005 through 2010, user fees for each of the types of conveyances or persons to whom AQI services are provided, *i.e.*, commercial vessels (watercraft), commercial trucks, loaded commercial railroad cars, commercial aircraft, and international airline passengers. The regulations provide specific information regarding the applicability of, and exceptions to, AQI user fees. As specified in 7 CFR 354.3, the user fees for these AQI services for fiscal year 2009 are as follows:

Service	Unit	Amount
Inspection of commercial vessels of 100 net tons or more (see 7 CFR 354.3(b))	Per entry [1]	$494.00
Inspection of commercial trucks (see 7 CFR 354.3(c))	Per entry [2]	5.25
Inspection of commercial railroad cars (see 7 CFR 354.3(d))	Per entry [3]	7.75
Inspection of commercial aircraft (see 7 CFR 354.3(e))	Per entry	70.75
Inspection of international aircraft passengers (see 7 CFR 354.3(f))	Per entry	5.00

[1] Not to exceed 15 payments in a calendar year (i.e., no additional fee will be charged for a 16th or subsequent arrival in a calendar year).
[2] A prepaid AQI permit valid for 1 calendar year may be obtained for an amount 20 times the AQI use fee for each arrival ($105 from October 1, 2008, through September 30, 2009).
[3] The AQI user fee may be prepaid for all arrival of a commercial railroad car during a calendar year for an amount 20 times the AQI use fee for each arrival ($155 from October 1, 2008, through September 30, 2009).

Done in Washington, DC, this 21st day of August, 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–19864 Filed 8–26–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Southern Maryland Electric Cooperative; Notice of Intent To Hold a Public Scoping Meeting and Prepare an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent to hold a public scoping meeting and prepare an Environmental Assessment.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the U.S. Department of Agriculture's Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or Agency, intends to hold a public scoping meeting and prepare an Environmental Assessment (EA) in connection with potential impacts related to a proposal by Southern Maryland Electric Cooperative (SMECO), with headquarters in Hughesville, Maryland. The proposal consists of the construction of approximately 30 miles of 230 kilovolt (kV) transmission line, a new 230/69 kV switching station, a 230/69 kV switching station expansion, and a river crossing located in Calvert and St. Mary's Counties in Maryland.

DATES: USDA Rural Development will conduct a scoping meeting in an open house format, seeking the input of the public and other interested parties. The meeting will be held from 5 p.m. until 8 p.m., on September 11, 2008.

ADDRESSES: The September 11, 2008 meeting will be held at the SMECO office located at 901 Dares Beach Road in Prince Frederick, Maryland. The SMECO phone number is 888–440–3311.

An Electric Alternatives Evaluation and Macro Corridor Study Report will be available at the public scoping meeting, at USDA Rural Development's address provided in this notice, at their Web site: *http://www.usda.gov/rus/water/ees/ea.htm*, and at SMECO, 15035 Burnt Store Road, Hughesville, Maryland 20637.

FOR FURTHER INFORMATION CONTACT: Stephanie A. Strength, Environmental Protection Specialist, USDA Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Ave., SW., Stop 1571, Washington, DC 20250, or e-mail *stephanie.strength@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: Southern Maryland Electric Cooperative proposes to construct a 230 kV transmission line between the existing Holland Cliff Switching Station in Calvert County to the existing Hewitt Road Switching Station in St. Mary's County, Maryland. The proposal comprises five segments and includes (1) The installation of approximately 20 miles of new 230 kV single pole, double-circuit transmission line from the Holland Cliff switching station to a new switching station located in Southern Calvert; (2) the installation of the new Southern Calvert 230/69 kV switching station; (3) the installation of approximately 10 miles of new 230 kV single pole, double-circuit transmission line from the new Southern Calvert switching station to the existing Hewitt Road switching station; (4) the installation of approximately 2 miles of 230 kV underground transmission cable circuit across the lower Patuxent River; and (5) the expansion of the existing 230 kV ring bus at Hewitt Road switching station to accommodate the new 230 kV transmission line from Southern Calvert. Throughout the right-of-way, the existing 69 kV poles will be removed and the existing 69 kV conductors will be installed on the new 230 kV poles along with the new 230 kV conductors. This configuration will allow the use of the existing 69 kV transmission line right-of-way and preclude the need for additional right-of-way land acquisition.

The proposed location of the new switching station will be in southern Calvert County, possibly near Lusby, Maryland, along the existing 69 kV transmission line right-of-way. The site is anticipated to be approximately 25 acres to accommodate the switching station equipment and a buffer. Switching station sites will be further assessed in the Environmental Assessment.

The Patuxent River crossing will be approximately two miles, in the vicinity of the existing 69 kV underground transmission line, near the Thomas Johnson Bridge. Alternative crossing locations as well as construction alternatives were considered in order to improve maintenance capabilities, mitigate environmental impact, and reduce proposal costs. Alternatives include (1) installation of a submarine cable jetted into the bottom of the Patuxent River, and (2) attaching the 230 kV underground cable circuit to the existing bridge or a future bridge planned near the existing Thomas Johnson Bridge. Construction of the proposal is anticipated for completion in 2015.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposed project. Representatives from USDA Rural Development and Southern Maryland Electric Cooperative will be available at the scoping meeting to discuss the environmental review process, describe the proposal, answer questions, and receive comments. Comments regarding the proposed action may be submitted (orally or in writing) at the public scoping meeting or in writing by October 11, 2008 at the USDA Rural Development address provided in this notice.

From information provided in the Electric Alternatives Evaluation and Macro Corridor Study Report, from government agencies, private organizations, and the public, Southern Maryland Electric Cooperative will prepare an environmental analysis to be submitted to USDA Rural Development for review. USDA Rural Development will review the environmental analysis and determine the significance of the impacts of the proposal. If accepted, the document will be adopted as the environmental assessment (EA) for the proposal. USDA Rural Development's EA would be available for review and comment for 30 days. Should the USDA Rural Development determine, based on the EA for the proposal, that impacts associated with the construction and operation of the proposal would not have a significant environmental impact, it will prepare a finding of no significant impact (FONSI). Public notification of a FONSI would be published in the **Federal Register** and in newspapers with circulation in the proposal area.

Any final action by USDA Rural Development related to the proposal would be subject to, and contingent upon, compliance with environmental review requirements as prescribed by the USDA Rural Development' s environmental policies and procedures (7 CFR 1794).

Dated: August 22, 2008.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. E8–19792 Filed 8–26–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–841, A–570–925]

Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Antidumping Duty Orders

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (the Commission), the Department is issuing antidumping duty orders on sodium nitrite from the Federal Republic of Germany (Germany) and the People's Republic of China (PRC). On August 20, 2008, the Commission notified the Department of its affirmative determination of material injury to a U.S. industry. *See Sodium Nitrite from China and Germany* (Investigation Nos. 701–TA–453 and 731–TA–1136–1137 (Final), USITC Publication 4029, August 2008).

EFFECTIVE DATE: August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith (Federal Republic of Germany) or Magd Zalok (People's Republic of China), AD/CVD Operations, Offices 2 and 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–4162, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 2008, the Department published its affirmative final determinations of sales at less–than–fair–value in the antidumping duty investigations of sodium nitrite from Germany and the PRC. *See Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986 (July 8, 2008); and *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the People's Republic of China*, 73 FR 38984 (July 8, 2008).

On August 20, 2008, the Commission notified the Department of its final determination pursuant to section 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of less–than–fair–value imports of subject merchandise from Germany and the PRC. *See* section 735(b)(1)(A)(i) of the Act.

Scope of the Orders

The merchandise subject to these orders is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these orders may or may not contain an anti–caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti–rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is $NaNO_2$ and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0.

While the HTSUS subheading, CAS registry number, and CAS name are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Antidumping Duty Orders

On August 20, 2008, in accordance with section 735(d) of the Act, the Commission notified the Department of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of less–than–fair–value imports of subject merchandise from Germany and the PRC.

In accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of sodium nitrite from Germany and the PRC. These antidumping duties will be assessed on all unliquidated entries of sodium nitrite entered, or withdrawn from warehouse, for consumption on or after April 23, 2008, the date on which the Department published its notices of preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909 (April 23, 2008); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the People's Republic of China*, 73 FR 21906 (April 23, 2008).

On or after the date of publication of the Commission's notice of final determination in the **Federal Register**, CBP must require, pursuant to section 735(c)(3) of the Act, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated dumping margins as noted below:

Country	Manufacturer/exporter	Weighted–Average Margin (percent)
Germany	BASF AG	237.00
	All–Others	150.82
PRC	PRC–Wide Rate	190.74

This notice constitutes the antidumping duty orders with respect to sodium nitrite from Germany and the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: August 21, 2008.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E8–19895 Filed 8–26–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Establishment of the Civil Nuclear Trade Advisory Committee and Solicitation of Nominations for Membership

AGENCY: International Trade Administration, DOC.

ACTION: Notice of establishment of the Civil Nuclear Trade Advisory

Committee and solicitation of nominations for membership.

SUMMARY: Pursuant to provisions under the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, the Under Secretary of Commerce for International Trade announces the establishment of the Civil Nuclear Trade Advisory Committee (CINTAC) by the Secretary of Commerce. The CINTAC shall advise the Secretary regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable United States regulations, for use by the Department of Commerce in its role as member of the Civil Nuclear Trade Working Group (CINTWG) of the Trade Promotion Coordinating Committee (TPCC). This notice also requests nominations for membership on the CINTAC.

DATES: Nominations for members must be received on or before September 30, 2008.

ADDRESSES: All nominations should be submitted to Sarah Lopp, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Sarah Lopp, Office of Energy & Environmental Industries, Room 4407, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; phone 202–482–3851; fax 202–482–5665; e-mail *sarah.lopp@mail.doc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The CINTAC is being established under the discretionary authority of the Secretary, in response to an identified need for consensus advice from U.S. industry to the U.S. government on how U.S. foreign policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market. The Federal Advisory Committee Act (5 U.S.C. Appendix 2) governs the CINTAC, and sets forth standards for the formation and use of advisory committees.

CINTAC shall advise the Secretary of Commerce regarding the development and administration of programs and policies to expand United States exports of civil nuclear goods and services in accordance with applicable United States regulations, for use of the Department of Commerce in its role as member of the CINTWG of the TPCC. In connection with that function, the Committee shall advise on matters including, but not limited to:

(1) Trade policy development and negotiations relating to U.S. civil nuclear exports;

(2) The effect of U.S. and foreign government policies, regulations, programs and practices on the export of U.S. civil nuclear goods and services;

(3) The competitiveness of U.S. industry and its ability to respond to international opportunities for civil nuclear products and services, including specific exporting problems, and U.S. Government and public/private actions to assist civil nuclear companies in expanding their exports;

(4) Priority civil nuclear products and services markets with high immediate returns for U.S. exports, as well as emerging markets with a longer-term potential for U.S. exports;

(5) Strategies to increase private sector awareness and effective use of U.S. Government export promotion programs, and to make U.S. Government programs more efficiently designed and coordinated;

(6) The development of complementary industry and trade association export promotion programs, and greater or more effective resource allocation for export promotion in the private sector; and

(7) The development of U.S. Government programs to encourage producers of civil nuclear products and services to enter new foreign markets, in connection with which CINTAC may advise on how to gather, disseminate, and promote awareness of information on civil nuclear exports and related trade issues.

II. Structure

The CINTAC shall consist of not more than 20 members appointed by the Secretary of Commerce, in accordance with applicable Department of Commerce guidance and based on their ability to carry out the objectives of the CINTAC. Members shall represent U.S. exporters of civil nuclear products and services and reflect the diversity of this sector, including company size and geographic location, and shall be drawn from U.S. civil nuclear manufacturing and services companies, U.S. trade associations, and U.S. private sector organizations involved in the promotion of exports of civil nuclear products and services. The Secretary shall appoint to the Committee at least one individual representing each of the following groups:

a. U.S. civil nuclear companies that are not majority owned or controlled by a foreign government entity;

b. Small businesses;

c. U.S. utilities;

d. Trade associations in the civil nuclear sector; and

e. Private sector organizations involved in the international trade of civil nuclear products and services.

Members shall serve in a representative capacity, expressing the views and interests of a U.S. entity or organization, as well as their particular sector. The members shall not serve as Special Government Employees. Each member of the Committee must be a U.S. citizen, and not registered as foreign agent under the Foreign Agents Registration Act. No member may represent a company that is majority owned or controlled by a foreign government entity. Appointments will be made without regard to political affiliation. Members shall serve at the pleasure of the Secretary from the date of appointment to the Committee to the date on which the CINTAC's charter terminates (normally a two-year term). The Secretary shall designate the CINTAC Chair and Vice Chair. The Chair and Vice Chair will serve in those positions at the pleasure of the Secretary. The Assistant Secretary of Commerce for Manufacturing and Services shall designate the CINTAC Executive Director. The Assistant Secretary of Commerce for Manufacturing and Services shall designate a Designated Federal Officer (DFO) from among the employees of the Office of Energy and Environmental Industries.

III. Compensation

Members of the CINTAC will not be compensated for their services or reimbursed for their travel expenses.

IV. Nominations

The Secretary of Commerce invites nominations to CINTAC of U.S. citizens who will represent U.S. civil nuclear goods and services companies that trade internationally, or trade associations whose members include U.S. companies that trade internationally. No member may represent a company that is majority owned or controlled by a foreign government entity. Nominees will be considered based upon their ability to carry out the goals of CINTAC as articulated in its charter. Self-nominations will be accepted. If you are interested in nominating someone to become a member of CINTAC, please provide the following information (2 pages maximum):

(1) Name;

(2) Title;

(3) Work Phone; Fax; and, E-mail Address;

(4) Company or Trade Association Name and Address including Web site Address;

(5) Short Biography of nominee including credentials;

(6) Brief description of the company or trade association and its business activities; company size (number of employees and annual sales); and export markets served.

Please do not send company or trade association brochures or any other information.

This information may be e-mailed to *Sarah.Lopp@mail.doc.gov* or faxed to the attention of Sarah Lopp at 202–482–5665, and must be received before the deadline. Nominees selected for appointment to CINTAC will be notified by return mail.

Jamie Estrada,

Deputy Assistant Secretary for Manufacturing.

[FR Doc. E8–19839 Filed 8–26–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–926]

Sodium Nitrite from the People's Republic of China: Countervailing Duty Order

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

SUMMARY: Based on an affirmative final determination by the U.S. International Trade Commission (ITC), the Department of Commerce (the Department) is issuing a countervailing duty order on sodium nitrite from the People's Republic of China (PRC). On August 20, 2008, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. See Sodium Nitrite from the People's Republic of China, USITC Pub. 4029, Inv. No. 701–TA–453 (Final) (August 2008).

EFFECTIVE DATE: August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Paul Matino, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3586 or (202) 482–4146, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this order may or may not contain an anti–caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti–rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is $NaNO_2$ and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0. For purposes of the scope of this order, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Countervailing Duty Order

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on July 8, 2008, the Department published its final determination in the countervailing duty investigation of sodium nitrite from the PRC. *See Sodium Nitrite from the People's Republic of China: Final Affirmative Countervailing Determination*, 73 FR 38981 (July 8, 2008). On August 9, 2008, the Department terminated suspension of liquidation in accordance with 703(d) of the Act. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months.

On August 20, 2008, the ITC notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured as a result of subsidized imports of sodium nitrite from the PRC. As a result of the ITC's determination, in accordance with Section 706(a) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, countervailing duties on all unliquidated entries of sodium nitrite from the PRC entered, or withdrawn from warehouse, for consumption on or after April 11, 2008, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**, and before August 9, 2008, the date on which the Department instructed CBP to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Entries of sodium nitrite made on or after August 9, 2008, and prior to the date of publication of the ITC's final determination in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective August 9, 2008, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation for sodium nitrite from the PRC, effective the date of publication of the ITC's notice of final determination in the **Federal Register**, and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below:

Producer/Exporter	Subsidy Rate
Shanxi Jiaocheng Hongxing Chemical Co., Ltd. (Shanxi Jiaocheng)	169.01%
Tianjin Soda Plant Tianjin Port Free Trade Zone Pan Bohai International Trading Co., Ltd. (Tianjin Soda Plant)	169.01%
All Others	169.01%

This notice constitutes the countervailing duty order with respect to sodium nitrite from the PRC pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit (CRU), Room 1117 of the main Commerce building, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is issued and published in accordance with sections 705(c)(2) and 705(d) of the Act and 19 CFR 351.211.

Dated: August 22, 2008.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E8–19884 Filed 8–26–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–941]

Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Initiation of Antidumping Duty Investigation

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

EFFECTIVE DATE: August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Julia Hancock, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1394, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On July 31, 2008, the Department of Commerce (the ''Department'') received a Petition concerning imports of certain kitchen appliance shelving and racks (''shelving and racks'') from the People's Republic of China (''PRC'') filed in proper form by Nashville Wire Products Inc., SSW Holding Company, Inc., United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied–Industrial and Service Workers International Union, and the International Association of Machinists & Aerospace Workers, District 6 (hereafter referred to as the ''Petitioners''). *See* Petition for the Imposition of Antidumping Duties: Certain Kitchen Appliance Shelving and Racks from the People's Republic of China (in two volumes), dated July 31, 2008 (''Petition''). On August 5, 2008, the Department issued a request for additional information and clarification of certain areas of the Petition. Based on the Department's request, the Petitioners filed supplemental information on the following topics: general issues (*i.e.*, scope, injury and industry support) and U.S. price and normal value (''NV'') calculations on August 8, 2008. In addition, on August 11, 2008, the Department issued a second request for additional information and clarification of certain areas of the Petition. Based on the Department's request, the Petitioners filed supplemental information on the following topics: general issues (*i.e.*, scope and industry support) and U.S. price and NV calculations on August 13, 2008. Moreover, on August 14, 2008, the Department requested, via a telephone conversation with the Petitioners' counsel, additional information and clarification of certain areas of the Petition. *See* Memo to the File from Victoria Flynn, dated August 14, 2008. Based on the Department's request, the Petitioners filed supplemental information on the following topics: general issues (*i.e.*, scope and industry support) on August 15, 2008.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''the Act''), the Petitioners allege that imports of shelving and racks from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the Petitioners filed this Petition on behalf of the domestic industry because the Petitioners are an interested party as defined in sections 771(9)(C) and (D) of the Act, and have demonstrated sufficient industry support with respect to the antidumping duty investigation. *See* ''Determination of Industry Support for the Petition'' section, *infra*.

Period of Investigation

The period of investigation (''POI'') is January 1, 2008, through June 30, 2008. See 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise covered by this investigation is certain kitchen appliance shelving and racks. *See* Appendix I to this notice for a complete description of the merchandise covered by this investigation.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with the Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments by September 10, 2008, which is 21 calendar days from the date of signature of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaire

The Department is requesting comments from interested parties regarding the appropriate physical characteristics of shelving and racks to be reported in response to the Department's antidumping questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise to allow respondents to accurately report the relevant factors of production, as well as develop appropriate product reporting criteria, in accordance with the Department's non–market economy (''NME'') methodology, as described in the ''Normal Value'' section, *infra*.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, interested parties may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product reporting criteria. The Department notes that it is not always appropriate to use all product characteristics as product reporting criteria. While there may be some physical product characteristics that manufacturers use to describe shelving and racks, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics of shelving and racks.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaire, the Department must receive public comments at the above–referenced address by September 10, 2008, and receive rebuttal comments by September 15, 2008.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition

does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), *citing Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Although the reference point from which the domestic like product analysis begins is usually ''the article subject to an investigation'' (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition), the Petitioners argue that there is one class or kind of merchandise, but two domestic like products.

The Petitioners note that the two like products, when considered together, correspond to the product scope description. Based on our analysis of the information submitted on the record, we have determined that certain refrigeration shelving and certain oven racks constitute two domestic like products and we have analyzed industry support in terms of those domestic like products. For a discussion of the domestic like product analysis in this case, *see* ''Antidumping Duty Investigation Initiation Checklist: Certain Kitchen Appliance Shelving and Racks from the People's Republic of China (''Initiation Checklist''), Industry Support at Attachment II, on file in the Central Records Unit (''CRU''), Room 1117 of the main Department of Commerce building.

With regard to section 732(c)(4)(A) of the Act, in determining whether the Petitioners have standing (*i.e.*, the domestic workers and producer supporting the Petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition), we considered the industry support data contained in the Petition with reference to the domestic like products. To establish industry support, the Petitioners provided their own production volume of the domestic like products for calendar year 2007, and compared that to total production volume of the domestic like products for the industry. We have relied upon data the Petitioners provided for purposes of measuring industry support. For further discussion, see Initiation Checklist at Attachment II (Industry Support).

The Department's review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that the Petitioners have established industry support. First, the Petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like products and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* section 732(c)(4)(D) of the Act and Initiation Checklist at Attachment II (Industry Support). Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like products. *See* Initiation Checklist at Attachment II (Industry Support). Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like products produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist at Attachment II (Industry Support).

The Department finds that the Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department initiate. *See* Initiation Checklist at Attachment II (Industry Support).

Allegations and Evidence of Material Injury and Causation

The Petitioners allege that the U.S. industries producing the domestic like products are being materially injured, or are threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The Petitioners contend that the industries' injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III (Analysis of Injury Allegations and Evidence of Material Injury and Causation).

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of shelving and racks from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the initiation checklist. *See* Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we will reexamine the information and

revise the margin calculations, if appropriate.

Export Price

The Petitioners relied on seven U.S. price quotes for shelving and racks manufactured in the PRC and offered for sale in the United States. The prices quoted were for four types of refrigerator shelving and three types of oven racks. *See* Petition, Volume II, at Exhibits 8 & 11. The Petitioners made deductions from these prices to arrive at an ex–works price. *See* Petition, Volume II, at Exhibits 10, 13 & 14; *see also* Second Supplement to the Petition at Exhibit 3.

Normal Value

The Petitioners note that the PRC is a NME country and that no determination to the contrary has yet been made by the Department. *See* Petition, Volume II, at 2. The Department has previously examined the PRC's market status and determined that NME status should continue for the PRC. *See* Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, regarding The People's Republic of China Status as a Non–Market Economy, dated May 15, 2006 (available online at *http://ia.ita.doc.gov/download /prc–nme-status/prc–nme-status–memo.pdf*). In addition, in recent investigations, the Department has continued to determine that the PRC is an NME country. *See Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007); *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. We have determined in previous investigations that we are not able to calculate NV using internal PRC prices. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The Petitioners argue that India is the appropriate surrogate country for the PRC, because it is a market–economy country at a comparable level of economic development and the Petitioners were able to identify a major Indian producer of shelving and racks. *See* Petition, Volume II, at 3–4. The Petitioners assert that they were not able to identify major producers of shelving and racks in other potential surrogate countries (*e.g.*, Egypt, Indonesia, the Philippines and Sri Lanka). *See* Petition, Volume II, at 4. Based on the information provided by the Petitioners, the Department believes that the use of India as a surrogate country is appropriate for purposes of initiation. However, after initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

The Petitioners calculated NVs and dumping margins for the U.S. prices, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The Petitioners calculated NV based on one of its own company's consumption rates for producing seven models of shelving and racks from the PRC during the POR. *See* Petition, Volume II, at 4–5 and Exhibit 1; Second Supplement to the Petition at Exhibit 3; and Initiation Checklist. The Petitioners state that their production experience is representative of the production process used in the PRC because all of the material inputs and processing are unlikely to be materially different for a Chinese producer of racks and shelving. See Petition, Volume II, at 5; *see also* Supplement to the Petition at 2.

The Petitioners valued the factors of production based on reasonably available, public surrogate country data, including official Indian government import statistics and sources recently used in other PRC proceedings conducted by the Department. Since the Petitioners were unable to find input prices contemporaneous with the POI for electricity, water and gas, they adjusted for inflation using the wholesale price index for India, as published by the International Monetary Fund, *International Financial Statistics*. *See* Petition, Volume II, at 6 and Exhibit 3. In addition, the Petitioners made currency conversions, where necessary, based on the POI average rupee/U.S. dollar exchange rate, as reported on the Department's website. See Petition, Volume II, at 7 and Exhibit 4. The Petitioners calculated a labor usage rate for the PRC based upon its own experience. *See* Petition, Volume II, at 6. To value labor, the Petitioners used a labor rate of $1.04 per hour, as published on the Department's web site, in accordance with the Department's regulations. *See* 19 CFR 351.408(c)(3) and the Initiation Checklist. The Department determines that the surrogate values used by the Petitioners are reasonably available and, thus, acceptable for purposes of initiation.

The Petitioners based factory overhead expenses, selling, general and administrative expenses, and profit, based on the experience of Usha Martin, an Indian manufacturer of wire rope because its products and shelving and racks use wire as a major input. *See* Petition, Volume II, at 20. For purposes of initiation, the Department finds the Petitioners' use of Usha Martin's most recently available financial statement to calculate the surrogate financial ratios appropriate.

Fair Value Comparison

Based on the data provided by the Petitioners, there is reason to believe that imports of shelving and racks from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margin for shelving and racks from the PRC ranges from 58.91 percent to 142.64 percent. *See* Second Supplement to the Petition at Attachment 3.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on shelving and racks from the PRC, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of shelving and racks from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In this investigation, the Department will request quantity and value information from all known exporters and producers identified in the Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory

respondents. The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005). Appendix II of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than September 10, 2008. In addition, the Department will post the quantity and value questionnaire along with filing instructions on the Import Administration website, at *http://ia.ita.doc.gov/ia–highlights-and–news.html*. The Department will send the quantity and value questionnaire to those PRC companies identified in the Petition, Volume I, at Exhibit 3.

Separate Rates

In order to obtain separate–rate status in NME investigations, exporters and producers must submit a separate–rate status application. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (April 5, 2005) (''Separate Rates/Combination Rates Bulletin''), available on the Department's website at *http://ia.ita.doc.gov/policy/bull05–1.pdf*. The specific requirements for submitting the separate–rate application in this investigation are outlined in detail in the application itself, available on the Department's website at *http://ia.ita.doc.gov/ia–highlights-and–news.html* on the date of publication of this initiation notice in the **Federal Register**. The separate–rate application will be due 60 days from the date of publication of this initiation notice in the **Federal Register**. As noted in the ''Respondent Selection'' section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates/Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates/Combination Rates Bulletin at 6.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the representatives of the Government of the PRC. We will attempt to provide a copy of the public version of the Petition to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the International Trade Commission

The ITC will preliminarily determine, no later than September 15, 2008, whether there is a reasonable indication that imports of shelving and racks from the PRC are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to this investigation will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: August 20, 2008.

David M. Spooner,

Assistant Secretaryfor Import Administration.

Appendix I

Scope of the Investigation

Certain Kitchen Appliance Shelving and Racks from the People's Republic of China

The scope of this investigation consists of shelving and racks for refrigerators, freezers, combined refrigerator–freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (''certain kitchen appliance shelving and racks'' or ''the subject merchandise''). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- -- shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- -- baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- --side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or
- --subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The subject merchandise may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this investigation is shelving in which the support surface is glass.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 8418.99.8050, 7321.90.5000, 7321.90.6090 and 8516.90.8000. Although the HTSUS

subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930, as amended, permits us to investigate: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection; or, (2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In providing the information in the chart below, please provide the total quantity in pieces/units and total value (in U.S. dollars) of all your sales to the United States during the period January 1, 2008 through June 30, 2008, covered by the scope of this investigation *see* Appendix I of this notice), produced in the PRC.

Additionally, if you believe that you should be treated as a single entity along with other named exporters, please complete the chart, below, both in the aggregate for all named parties in your group and, in separate charts, individually for each named entity. Please label each chart accordingly.

Market: United States	Total Quantity (# of Units)	Terms of Sale[1]	Total Value[2] ($U.S.)
1. Export Price[3]			
2. Constructed Export Price[4]			
3. Further Manufactured[5]			
Total			

[1] To the extent possible, sales values should be reported based on the same terms (*e.g.*, FOB).
[2] Values should be expressed in U.S. dollars. Indicate any exchange rates used, their respective dates and sources.
[3] Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before the goods are imported into the United States.
[4] Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation. Do not report the sale to the affiliated party in the United States, rather report the sale made by the affiliated party to the unaffiliated customer in the United States.
[5] "Further manufactured" refers to merchandise that undergoes further manufacture or assembly in the United States before sale to the first unaffiliated customer.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Oceanic and Atmospheric Research NOAA Science Advisory Board's Climate Working Group

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of solicitation for members of the NOAA Science Advisory Board's Climate Working Group.

SUMMARY: The Under Secretary of Commerce for Oceans and Atmosphere requested the NOAA Science Advisory Board (SAB) to establish a standing working group to provide scientific advice and broad direction NOAA's climate program in the context of both national and international activities. The Climate Working Group (CWG) focuses on the broad research and operational components of the climate program as well as on the underlying observations and data management issues. The CWG assists NOAA's climate programs in establishing plans, reviewing progress, and setting priorities on a continuing basis. As the terms of current members end, additional members are needed and the SAB is soliciting nominations for four vacancies.

DATES: Nominations must be received October 27, 2008.

ADDRESSES: Nominations should be submitted electronically to *noaa.sab.climate@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, 301–734–1156; *cynthia.decker@noaa.gov.*

SUPPLEMENTARY INFORMATION: The complete Terms of Reference of this working group can be found on the NOAA Science Advisory Board website *http://www.sab.noaa.gov/working_groups/standing/docs/2008/CWG_TOR_12July07.pdf.* At this time, the SAB is soliciting nominations for four vacancies in the following areas of expertise relating to climate science: Ocean circulation/dynamics, ocean observations, atmospheric dynamics, atmospheric space-based observations, decision support, paleoclimate, and land surface/hydrology modeling. The intent is to select from the suggested candidates, however, the SAB retains the prerogative to name members to the working group who were not nominated if it deems this necessary to achieve the desired balance. Once selected, the SAB will post the review panel members' names at *http://www.sab.noaa.gov.*

Nominations

Anyone is eligible to nominate members of the working group. Self-nominations will be accepted. Nominations should provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; and (3) a description of nominee's qualifications relative to the kinds of advice being solicited. Inclusion of a Curriculum Vitae or resume is desirable.

Dated: August 21, 2008.

Mark E. Brown,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Atmospheric Administration.

[FR Doc. E8–19879 Filed 8–26–08; 8:45 am]
BILLING CODE 3510–KD–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; NanoDynamics, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to NanoDynamics, Inc., a revocable, nonassignable, exclusive license to practice in the field of use of Building Materials which shall mean the use of Halloysite Microtubles for the elution of

any and all substances from them as a biocide in grouts, cements, parging materials, stuccos, and mortars; and wallboards, and cellulose-based materials such as wallboard papers, wallpapers, particleboard, paneling, medium density fiberboard (MDF) paneling, plywood, chipboard, and ceiling tile; and caulks, sealants and adhesives; and high pressure laminates, including wall, counter top and floor coverings or components thereof; and ceramics, cultured marbles, and tiles; and non-cellulose (i.e. polymer) based wallpapers, paneling, and other wall, counter top, and floor coverings or components; and insulations.

It also includes the field of use of Paint (as a coating for the elution of biocides on lumber) which shall mean the use of a licensed invention for the elution of any and all substances as a biocide in any and all coatings applied in liquid form for the protection of lumber in structures or components thereof in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 5,492,696: Controlled Release Microstructures, Navy Case No. 76,896.//U.S. Patent No. 5,651,976: Controlled Release of Active Agents Using Inorganic Tubules, Navy Case No. 76,652.//U.S. Patent No. 6,280,759: Method of Controlled Release and Controlled Release Microstructures, Navy Case No. 78,215 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than September 11, 2008.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone: 202–767–3083. Due to U.S. Postal delays, please fax: 202–404–7920, e-mail: *techtran@utopia.nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: August 20, 2008.

M.C.L. Horrigan,

Commander, Office of the Judge Advocate General, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. E8–19852 Filed 8–26–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before September 26, 2008.

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

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 21, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Binational Migrant Education Program (BMEP) State MEP Director Survey.

Frequency: Annually.

Affected Public: Federal Government; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 50.

Burden Hours:≤ 50.

Abstract: The survey collects information from State Migrant Education Programs (MEPs) on their participation in the Binational Migrant Education Program (BMEP) to serve children who migrate between Mexico and the U.S.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3555. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–19824 Filed 8–26–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Notice of intent to use certain discretionary grant priorities in fiscal year 2009.

SUMMARY: The Secretary proposes to continue the use in fiscal year (FY) 2009 of priorities that the Department of Education (Department) previously established for use in any discretionary

grant program competition in FY 2007 and FY 2008. We take this action in order to continue to focus Federal financial assistance on expanding the number of programs and projects Department-wide that support activities in areas of greatest educational need. We are proposing to continue the use of the priorities on a Department-wide basis, so that Department offices can use one or more of these priorities in any discretionary grant competition, as appropriate.

DATES: We must receive your comments on or before September 26, 2008.

ADDRESSES: Address all comments about this proposed action to Margo K. Anderson, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W311, Washington, DC 20202–5910. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''FY 2009 Use of Department-wide Priorities'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Margo Anderson. Telephone: (202) 205–3010 or via Internet at *Margo.Anderson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed action.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed action. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs.

During and after the comment period, you may inspect all public comments about this proposed action in room 4W333, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed action. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

General

On October 11, 2006 (71 FR 60046), the Department established the following menu of priorities for discretionary grant programs to help support rigorous instruction, high standards, and accountability for results:

1. Mathematics.
2. Science.
3. Critical-Need Languages.
4. Secondary Schools.
5. Professional Development for Secondary School Teachers.
6. School Districts with Schools in Need of Improvement, Corrective Action, or Restructuring.
7. Student Achievement Data.
8. State Data Systems.

These priorities were available for use in FY 2007 and FY 2008. The Department believes that these priorities are still relevant to the Nation's educational needs and is proposing to continue their use in FY 2009.

These priorities were designed to respond to the fact that America's rapidly changing economy requires an educational system that produces high school graduates with the skills needed to be successful in postsecondary education and the workforce. In addition to improving the academic achievement of students in mathematics and science, the content-specific priorities established for FY 2007 and FY 2008 were designed to (a) expand the number of Americans mastering foreign languages critical to national security and to our participation in the global economy; (b) help high schools develop a larger pool of technically adept and numerically literate Americans; a continual supply of highly trained mathematicians, scientists, and engineers; and more students with higher levels of proficiency in critical-need languages; and (c) enhance high-quality professional development for secondary school teachers to help ensure that these teachers have the content knowledge and expertise required to improve student achievement. Another priority was designed to focus assistance on schools in need of improvement, corrective action, or restructuring. We believe that extending the use of these priorities will continue progress in these areas.

In addition, the Secretary established two priorities for use in FY 2007 and FY 2008 to ensure that data are available to inform decision-making. One of these priorities focuses resources on collecting data to assess the effects of projects on the academic achievement of student participants relative to appropriate comparison or control groups. Continued use of this priority will enable the Department to fund interventions that are designed to collect the best available data to determine the impact of the proposed interventions on student achievement and to inform future improvement efforts. The second focuses resources on projects to help educators use information from State data systems to improve student achievement or other appropriate outcomes.

Discussion of Proposed Action

We will announce the final action in a notice in the **Federal Register**. We will determine the final action after considering public comments on the proposal in this notice and other information available to the Department. This notice does not preclude the Secretary from proposing other actions, including the use of additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. If we choose to use one or more of the priorities referenced in this notice in FY 2009, we will invite applications for new awards under the applicable program through a notice in the **Federal Register**. When inviting applications we designate the priorities as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive preference priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Proposed Action

The Secretary proposes to continue to use certain priorities for discretionary grant competitions in FY 2009, as appropriate. The Secretary intends that these priorities, which were originally established for use in FY 2007 and FY 2008, will allow the Department to continue to focus limited Federal resources on areas of greatest educational need in FY 2009. The Secretary recognizes that some of the priorities will not be appropriate for particular programs.

The priorities the Secretary proposes to make available for use by the Department in discretionary grant competitions in FY 2009 are as follows:

Priority 1—Mathematics. Projects that support activities to enable students to achieve proficiency or advanced proficiency in mathematics.

Priority 2—Science. Projects that support activities to enable students to achieve proficiency or advanced proficiency in science.

Priority 3—Critical-Need Languages. Projects that support activities to enable students to achieve proficiency or advanced proficiency in one or more of the following less commonly taught languages: Arabic, Chinese, Korean, Japanese, Russian, and languages in the Indic, Iranian, and Turkic language families.

Priority 4—Secondary Schools. Projects that support activities and interventions aimed at improving the academic achievement of secondary school students who are at greatest risk of not meeting challenging State academic standards and not completing high school.

Priority 5—Professional Development for Secondary School Teachers. Projects that support high-quality professional development for secondary school teachers to help these teachers improve student academic achievement.

Priority 6—School Districts with Schools in Need of Improvement, Corrective Action, or Restructuring. Projects that help school districts implement academic and structural interventions in schools that have been identified for improvement, corrective action, or restructuring under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001.

Priority 7—Student Achievement Data. Projects that collect pre- and post-intervention test data to assess the effect of the projects on the academic achievement of student participants relative to appropriate comparison or control groups.

Priority 8—State Data Systems. Projects that help educators use information from State data systems to improve student achievement or other appropriate outcomes.

Executive Order 12866

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this notice are those resulting from statutory requirements and those we have determined as necessary for administering the Department's discretionary grant programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice we have determined that the benefits of the proposed action justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Executive Order 12372

Some of the programs affected by this notice are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number does not apply.)

Program Authority: 20 U.S.C. 1221e–3; 20 U.S.C. 6301 *et seq.*

Dated: August 22, 2008.

Margaret Spellings,

Secretary of Education.

[FR Doc. E8–19893 Filed 8–26–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources Research and Development Program 2008 Annual Plan

AGENCY: Office of Fossil Energy, Department of Energy (DOE).

ACTION: Notice of Report Availability.

SUMMARY: The Office of Fossil Energy announces the availability of the *2008 Annual Plan* for the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources Research and Development Program on the DOE Web site at *http://management.energy.gov/FOIA/1480.htm* or in print form (see ''CONTACT'' below). The *2008 Annual Plan* is in compliance with the *Energy Policy Act of 2005, Subtitle J, Section 999B(e)(3)* which requires the publication of this plan and all written comments in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, Mail Stop FE–30, 1000 Independence Avenue, SW., Washington, DC 20585 or phone: 202–586–5600 or e-mail to *UltraDeepwater@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary [excerpted from the *2008 Annual Plan* p.3]

This document is the *2008 Annual Plan* for the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources Research and Development Program (Program), established pursuant to Subtitle J, Sections 999A through 999H, of the Energy Policy Act of 2005 (EPAct).

The Department of Energy (DOE) contracted with a consortium (Consortium) to administer three program elements, as identified in EPAct, pursuant to an annual plan. The three program elements administered by the Consortium include: ultra-deepwater architecture and technology, unconventional natural gas and other petroleum resources exploration and production technology, and technology challenges of small producers.

A fourth program element identified in EPAct for complementary research is

being performed by the National Energy Technology Laboratory (NETL). NETL is also tasked with primary review and oversight of the Consortium.

In 2006, NETL awarded a contract to the Research Partnership to Secure Energy for America (RPSEA) to function as the Consortium. NETL worked closely with RPSEA in the development of its first Draft Annual Plan (DAP), which framed the Consortium's goals for the first two years of the program. RPSEA gathered extensive input through industry workshops, road mapping sessions, and expert opinion to develop its first DAP, and identified priority areas for the investment of $32 million per year on Consortium awarded research and development (R&D).

Pursuant to Section 999B(e)(2)(A) of EPAct, the Consortium provided its recommendations for the 2008 Annual Plan in the form of a ''draft annual plan''. These recommendations were the basis for the Draft *2008 Annual Plan* which was presented to the Ultra-Deepwater Advisory Committee (UDAC) and the Unconventional Resources Technology Advisory Committee (URTAC) for review and comments. These comments were considered in the final development of the *2008 Annual Plan*.

In order to accommodate a Section 999B(e)(3) requirement to publish all written comments, the Advisory Committee reports are appended to the *2008 Annual Plan*. No other written comments were received.

The first solicitations under the Consortium Program were released in mid-October 2007, with proposals received in early December 2007 for a Small Producer Program and an Unconventional Natural Gas and Other Petroleum Resource Program. Additional solicitations were released in November 2007, December 2007, and February 2008.

In the *2008 Annual Plan*, the Ultra-Deepwater Program Element is divided into theme areas based on four generic field types that represent the most challenging field development scenarios facing deepwater operators. In 2008, the Consortium will solicit R&D projects that seek to develop technologies that will facilitate development of these field types. Additionally, there are eight crosscutting challenges that represent the areas where new technologies are needed to advance the pace of ultra-deepwater development for all fields. The Consortium will also solicit projects that seek to advance technologies in each of these areas as components of an integrated system. Seventeen projects were selected for award from thirteen UDW RFPs. The selected projects are listed in Table 2.5.

The Unconventional Natural Gas and Other Petroleum Resource Program Element is divided into three theme areas that target gas shales, water management for both coalbed methane and gas shales, and tight sands. As in the *2007 Annual Plan*, the *2008 Annual Plan* focuses on unconventional natural gas rather than ''other petroleum resources'' (*e.g.* , shale oil, oil sands, deep gas). This focus on natural gas resources is consistent with a recommendation of the Unconventional Resources Technology Advisory Committee. Unconventional oil resources may become an additional focus of Consortium R&D in the future; however, they are currently being addressed within NETL's R&D portfolio. To date, nineteen projects have been selected for award under the Unconventional Resources Program. The selected projects are listed in Table 2.9.

The Small Producers Program Element targets advancing technologies for mature fields, which primarily covers the technology challenges of managing water production, improving recovery, and reducing costs. Mature fields are the domain of small producers, and they face challenges in these three areas on a daily basis. To date, seven projects have been selected for award under the Small Producers Program. The selected projects mentioned above are listed in Table 2.11.

For each of the program elements, a number of ''themes'' have been developed to help guide the Consortium through the solicitation process. These themes and the prioritization process are described in greater detail in Sections 2.1, 2.2, and 2.3 of the *2008 Annual Plan.*

The solicitation process that is being followed to generate the portfolio of R&D projects to address these themes is described in Section 2.4.

Frequent communication between NETL and RPSEA ensures that research being conducted at the NETL remains complementary and supportive of the Consortium-administered program elements, and that duplication of effort is avoided. The technical committee established pursuant to EPAct 2005 Section 999H(d)(4) to further ensure that the R&D efforts remain complementary, conducted its first assessment on June 11, 2008 and determined that the complementary R&D program being carried out by NETL was not duplicative of the consortium-based program and is in fact complementary in nature.

The *2008 Annual Plan* focuses primarily upon the release of solicitations and the establishment of R&D projects. The R&D projects selected to date are expected to be awarded beginning in May 2008, with all awards anticipated completed by September 2008. Technology transfer is also a key focus for 2008 as it is an important aspect of successful R&D and will be carried out in a manner such that R&D results are disseminated to the widest possible audience.

Technology transfer for this program is a continually evolving function. Section 999C(d) of EPAct 2005 requires that 2.5% of the amount of each award is to be designated for technology transfer. The funds will target technology transfer at both the project and the program level. Expenditures of these funds will initially be proposed by the awardees.

RPSEA and the awardees will then coordinate to develop an appropriate approach which fulfills both the project and program technology transfer requirements. In the broader context, NETL and RPSEA are continuing to coordinate in the development of a technology transfer plan that provides a systematic approach for development of an integrated technology transfer program with the understanding that this will be a continually evolving function.

Section 999 H (a) of EPAct provides that the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund will be funded at $50-million-per-year, with funds generated from Federal lease royalties, rents, and bonuses paid by oil and gas companies. The Consortium receives 75 percent of those funds. After allocations for program management by NETL and R&D administration by RPSEA, the amounts to be invested in Consortium R&D total $32.06 million per year.

Under the Stage/Gate approach, described below in Section 2.5, all projects will be fully funded to the completion of the appropriate decision point identified in each contract, which may include multiple stages. If a decision is made to move to the next stage or decision point or to gather additional data, additional funding will be provided from available funds.

The NETL Strategic Center for Natural Gas and Oil is responsible for primary review and oversight of the Consortium. Complementary R&D is being carried out by NETL's Office of Research and Development. Planning and analysis related to the program, including benefits assessment and technology impacts analysis, is being carried out by

NETL's Office of Systems, Analysis, and Planning.

Section 999F of EPAct contains a general sunset provision for Subtitle J of September 30, 2014.

Dated: August 7, 2008.

Guido DeHoratiis,

Acting Deputy Assistant Secretary, Office of Oil and Natural Gas, Office of Fossil Energy.

[FR Doc. E8–19846 Filed 8–26–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13247–000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications

August 20, 2008.

On June 27, 2008 and supplemented on August 12, 2008, Natural Currents Energy Services, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Kingsbridge Marina Tidal Energy Project, located on the Manasquan River in Ocean County, New Jersey. The project uses no dam or impoundment.

The proposed project would consist of: (1) 2 Tidal In-Stream Energy Conversion (TISEC) generating units, with a total installed capacity of 40-kilowatts, (2) an underwater cable approximately 100 foot in length, and (3) appurtenant facilities. The project is estimated to have an annual generation of 300-megawatt-hours, which would be sold to the Kingsbridge Financial Group, Inc.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, LLC, 24 Roxanne Boulevard, Highland, New York 12561, (845) 691–4009.

FERC Contact: Kelly Houff (202) 502–6393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13247) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19810 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13246–000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

August 20, 2008.

On June 23, 2008 and supplemented on August 12, 2008, Natural Currents Energy Services, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Wiscasset Tidal Energy Project, located on the Sheepscot River in Lincoln County, Maine. The project uses no dam or impoundment.

The proposed project would consist of: (1) 6 Tidal In-Stream Energy Conversion (TISEC) generating units, with a total installed capacity of 10-megawatts, (2) an underwater cable approximately 0.5 to 1 km in length, and (3) appurtenant facilities. The project is estimated to have an annual generation of 4.38-gigawatt-hours, which would be sold to a local utility.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, LLC, 24 Roxanne Boulevard, Highland, New York 12561, (845) 691–4009.

FERC Contact: Kelly Houff (202) 502–6393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13246) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19813 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

August 19, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–989–006.

Applicants: Green Mountain Power Corporation.

Description: Green Mountain Power Corporation submits Change-in-Status Report resulting from the merger of Gas de France, which holds an indirect 12.78% interest in GMP, and SUEZ SA to form GDF SUEZ.

Filed Date: 08/12/2008.

Accession Number: 20080813–0298.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: ER02–553–010.

Applicants: Rolling Hills Generating L.L.C.

Description: Updated Market Power Analysis re Rolling Hills Generating, LLC.

Filed Date: 08/18/2008.

Accession Number: 20080818–5139.

Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: ER02–1947–009.

Applicants: Occidental Power Services, Inc.

Description: Occidental Power Marketing, LP *et. al.* submits an updated

market power analysis and rate schedule revisions pursuant to Order 697 and 697–A.

Filed Date: 08/12/2008.

Accession Number: 20080813–0157.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: ER02–2559–008; ER02–669–008; ER00–2391–009; ER00–3068–008; ER98–3511–012; ER99–2917–010; ER98–3566–015; ER02–1838–008; ER98–3563–012; ER98–3564–013; ER05–714–003; ER03–623–008; ER04–290–004; ER01–1710–011; ER04–187–006; ER05–236–006; ER02–2166–008; ER01–2139–012; ER03–1375–005; ER02–1903–009; ER02–2120–006

Applicants: Backbone Mountain Windpower LLC; Bayswater Peaking Facility, LLC; Doswell Limited Partnership; FPL Energy Cape, LLC; FPL Energy Maine Hydro, LLC; FPL Energy MH 50, LP; FPL Energy Power Marketing, Inc.; FPL Energy Seabrook, LLC; FPL Energy Wyman, LLC; FPL Energy Wyman IV, LLC; Gexa Energy LLC; Jamaica Bay Peaking Facility, LLC; Meyersdale Windpower, LLC; Mill Run Windpower, LLC; North Jersey Energy Associates, L.P.; Northeast Energy Associates, LP; Pennsylvania Windfarms, Inc.; Somerset Windpower, LLC; Waymart Wind Farm L.P.; FPL Energy Marcus Hook, L.P.; FPLE Rhode Island State Energy, L.P.

Description: FPLE Triennial Filers submits their revised Appendix B–1 which was mistakenly left off in the 6/30/08 submission of their triennial market power analysis.

Filed Date: 08/11/2008

Accession Number: 20080813–0166

Comment Date: 5 p.m. Eastern Time on Tuesday, September 02, 2008

Docket Numbers: ER04–222–006.

Applicants: CPV Milford, LLC.

Description: Amendment to Market Power Update of CPV Milford, LLC.

Filed Date: 08/14/2008.

Accession Number: 20080814–5066.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER07–1193–002.

Applicants: CPV Liberty, LLC.

Description: CPV Liberty, LLC submits Substitute Original Sheet 3, reflecting the correct effective of 6/6/08 to their application filed on 6/30/08 pursuant to Order 697 and 697–A.

Filed Date: 08/14/2008.

Accession Number: 20080818–0070.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER07–274–000.

Applicants: Juice Energy, Inc.

Description: Juice Energy, Inc submits clean and redline version of their revised Market-Based Rate Tariff reflecting the revised citation.

Filed Date: 08/14/2008.

Accession Number: 20080818–0073.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–637–004.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc submits copies of their compliance filing, responding to the questions set forth in Appendix B of the June 13 Order.

Filed Date: 08/12/2008.

Accession Number: 20080814–0068.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 02, 2008

Docket Numbers: ER08–799–001.

Applicants: Consolidated Edison Co. of New York, Inc.

Description: Consolidated Edison Company of New York, Inc submits an errata to their Master Services Agreement 230, Open Access Transmission Tariff, First Revised Volume 1 filed on 4/7/08 with VFT, LLC.

Filed Date: 08/14/2008.

Accession Number: 20080818–0085.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–895–001.

Applicants: Consolidated Edison Co. of New York, Inc.

Description: Consolidated Edison Company of New York, Inc submits responses to the inquiries posed in the Notice of Deficiency that Commission issued on 6/24/08.

Filed Date: 08/04/2008.

Accession Number: 20080814–0290.

Comment Date: 5 p.m. Eastern Time on Monday, August 25, 2008.

Docket Numbers: ER08–1213–002.

Applicants: Westmoreland Partners.

Description: Westmoreland Partners submits revision to its proposed market-based rate tariff filed on 6/30/08 pursuant to Order 697 and 697–A.

Filed Date: 08/12/2008.

Accession Number: 20080813–0297.

Comment Date: 5 p.m. Eastern Time on Monday, August 25, 2008.

Docket Numbers: ER08–1236–001.

Applicants: IPA Trading, LLC.

Description: IPA Trading, LLC submits an amendment to its Rate Schedule 1.

Filed Date: 08/12/2008.

Accession Number: 20080814–0067.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 26, 2008.

Docket Numbers: ER08–1384–000

Applicants: Sierra Pacific Resources Operating Company

Description: Nevada Companies submits amendments to the Sierra Pacific Resources Operating Companies Open Access Transmission Tariff, to be effective 10/10/08.

Filed Date: 08/12/2008.

Accession Number: 20080813–0296.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: ER08–1387–000; ER08–1388–000; ER08–1389–000; ER08–1390–000; ER08–1391–000.

Applicants: Deseret Generation & Transmission Co-op.; Idaho Power Company; NorthWestern Corporation; PacifiCorp; Portland General Electric Company.

Description: Idaho Power Company *et. al.* submits modifications to Rate Schedule 25 et al. to reflect amendments to the Amended and Restated 2008–2009 Northern Tier Transmission Group Funding Agreement.

Filed Date: 08/12/2008.

Accession Number: 20080814–0106.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008

Docket Numbers: ER08–1392–000.

Applicants: Fowler Ridge III Wind Farm LLC.

Description: Application of Fowler Ridge III Wind Farm, LLC for order accepting initial market-based rate tariff, waiving regulations, and granting blanket approvals.

Filed Date: 08/14/2008.

Accession Number: 20080818–0053.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1399–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc submits their Adjacent Balancing Authority Coordination Agreement with Manitoba Hydro.

Filed Date: 08/14/2008.

Accession Number: 20080818–0061.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1400–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc submits its Adjacent Balancing Authority Coordination Agreement with MidAmerican Energy Co.

Filed Date: 08/14/2008.

Accession Number: 20080818–0059.

Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1401–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc

submits its Adjacent Balancing Authority Coordination Agreement with OVEC Balancing Authority.
Filed Date: 08/14/2008.
Accession Number: 20080818–0057.
Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1402–000.
Applicants: Duquesne Light Company.
Description: Request of Duquesne Light Co. for transmission rate incentives and approval to implement incentives through formula transmission rates.
Filed Date: 08/14/2008.
Accession Number: 20080818–0091.
Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1403–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc., submits its Capital Projects Report and schedule of the unamortized costs of the ISO's funded capital expenditures for the quarter ending 6/30/08.
Filed Date: 08/14/2008.
Accession Number: 20080818–0077.
Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1404–000.
Applicants: Midwest Independent System Transmission.
Description: Midwest Independent Transmission System Operator, Inc submits motion for Commission approval of the proposed suspension and eventual termination of the Independent Market Monitor-Balancing Authority Agreement.
Filed Date: 08/14/2008.
Accession Number: 20080818–0080.
Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1405–000.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator, Inc submits proposed clarifications and revisions to Module D of the Midwest ISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff etc.
Filed Date: 08/14/2008.
Accession Number: 20080818–0078.
Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1406–000.
Applicants: ISO New England Inc.
Description: ISO New England, Inc. et. al. submits notice of cancellation of the Standard Large Generator Interconnection Agreement with Waterside Power, LLC effective 6/1/05 etc.
Filed Date: 08/14/2008.
Accession Number: 20080818–0079.
Comment Date: 5 p.m. Eastern Time on Thursday, September 4, 2008.

Docket Numbers: ER08–1408–000.
Applicants: Northeast Utilities Service Company.
Description: Northeast Utilities Service Company submits an errata—Substitute cover page for the agreement in both clean and redlined version to rectify the error to the 3/6/08 filing.
Filed Date: 08/12/2008.
Accession Number: 20080818–0084.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA07–33–002; OA07–11–003.
Applicants: Deseret Generation & Transmission Co-op.
Description: Order No. 890 OATT Compliance Filing of Deseret Generation & Transmission Co-operative, Inc.
Filed Date: 08/18/2008.
Accession Number: 20080818–5066.
Comment Date: 5 p.m. Eastern Time on Monday, September 08, 2008

Docket Numbers: OA07–39–002; OA08–71–001.
Applicants: Xcel Energy Services Inc.
Description: Order No. 890 OATT Compliance Filing.
Filed Date: 08/18/2008.
Accession Number: 20080818–5138.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Docket Numbers: OA07–52–004.
Applicants: Puget Sound Energy, Inc.
Description: Order No. 890 OATT Compliance Filing of Puget Sound Energy, Inc.
Filed Date: 08/18/2008.
Accession Number: 20080818–5135.
Comment Date: 5 p.m. Eastern Time on Monday, September 8, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5.p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,
Secretary.

[FR Doc. E8–19807 Filed 8–26–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 22, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:
Docket Numbers: RP06–200–047.
Applicants: Rockies Express Pipeline LLC.
Description: Rockies Express Pipeline submits First Revised Sheet 9G, to be effective 9/19/08.
Filed Date: 08/20/2008.
Accession Number: 20080821–0036.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: RP06–200–048.
Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline LLC submits Second Revised Sheet 9A, to its FERC Gas Tariff, Second Revised 1, to be effective 8/20/08.

Filed Date: 08/20/2008.

Accession Number: 20080821–0038.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: RP08–514–000.

Applicants: Carolina Gas Transmission Corporation

Description: Carolina Gas Transmission Corp's Penalty Revenue Sharing Filing for fiscal period June 1, 2007 to May 31, 2008.

Filed Date: 08/20/2008.

Accession Number: 20080820–5037.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: RP08–515–000.

Applicants: Transwestern Pipeline Company, LLC.

Description: Transwestern Pipeline Company, LLC submits First Revised Sheet 122A to its FERC Gas Tariff, Third Revised 1, to be effective 9/20/08.

Filed Date: 08/20/2008.

Accession Number: 20080821–0037.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Docket Numbers: RP08–516–000.

Applicants: Dauphin Island Gathering Partners.

Description: Dauphin Island Gathering Partners submits Seventh Revised Sheet 7 to FERC Gas Tariff, First Revised Volume 1, to be effective October 1, 2008.

Filed Date: 08/21/2008.

Accession Number: 20080821–0041.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 2, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19842 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–81–000]

Judith Gap Energy LLC and Northwestern Corporation; Notice of Filing

August 20, 2008.

Take notice that on August 12, 2008, Judith Gap Energy LLC (Judith Gap) and Northwestern Corporation (Northwestern) filed a petition for declaratory order requesting the Commission to determine whether Judith Gap, pursuant to terms of its executed Large Generator Interconnection Agreement (LGIA) with Northwestern is entitled to Network Resource Interconnection Service for up to 188 MW, notwithstanding that Judith Gap, to date, has placed into commercial operation 135 MW of the total 188 MW contemplated under the LGIA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19811 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–82–000]

Southern Indiana Gas & Electric Company; Notice of Filing

August 20, 2008.

Take notice that on August 13, 2008, Southern Indiana Gas & Electric Company (Vectren South) filed a petition for declaratory order requesting the Commission to grant Vectren South's two Order No. 679 transmission rate incentives for the proposed Gibson-Brown-Reid 345 kV Project.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 12, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19812 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–61–000; CP01–23–003]

North Baja Pipeline, LLC; Notice of Motion To Vacate Certificate in Part

August 20, 2008.

Take notice that on June 25, 2008, North Baja Pipeline, LLC (North Baja), 1400 SW Fifth Avenue, Suite 900, Portland, Oregon 94201, filed in Docket Nos. CP06–61–000 and CP01–23–003, a motion to vacate a portion of the certificate authority granted on October 2, 2007, in those dockets, allowing North Baja to modify and expand its existing pipeline system to facilitate the importation of regasified liquefied natural gas from Mexico into California and Arizona (Expansion Project). North Baja states that the planned construction of a 45.7-mile, 16-inch diameter lateral pipeline extending from a point north of its Ogilby Meter Station to the Imperial Irrigation District's El Centro Generating Facility in Imperial County, California (the ''IID Lateral'' proposed as construction Phase I–A), is no longer necessary due to the Imperial Irrigation District's decision to terminate its precedent agreement. North Baja seeks to vacate the portion of its certificate that authorizes the IID Lateral facilities, proposed as Phase I–A of the project.

The motion is on file with the Commission and open for public inspection. This motion is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding the application should be directed to Carl M. Fink, Associate General Counsel, North Baja Pipeline, LLC (North Baja), 1400 SW Fifth Avenue, Suite 900, Portland, Oregon 94201, (503) 833–4256.

There are two ways to become involved in the Commission's review of North Baja's request. First, any person wishing to obtain legal status by becoming a party to this proceeding should, on or before the comment date listed below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of this filing and all subsequent filings made with the Commission and must mail a copy of all filing to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, other persons do not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to North Baja's request. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to this project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only in support of or in opposition to North Baja's request should submit an original and two copies of their comments to the Secretary of the Commission. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: September 10, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19814 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–457–000]

CenterPoint Energy Gas Transmission Company-Mississippi River Transmission Corporation; Notice of Request Under Blanket Authorization

August 15, 2008.

Take notice that on August 6, 2008, CenterPoint Energy Gas Transmission Company-Mississippi River Transmission Corporation (MRT), 1111 Louisiana Street, Houston, Texas, 77002 filed in Docket No. CP08–457–000 a prior notice request pursuant to sections 157.205 and 157.213(b) of the Commission's regulations under the Natural Gas Act (NGA), and MRT's blanket certificate issued in Docket No. CP82–489–000.[1] MRT seeks

[1] 20 FERC ¶ 62,579 (1982).

authorization to drill, own and operate four new vertical storage wells, 3.4 miles of 6-inch and 4-inch associated storage field flow lines, 4-inch orifice meters and appurtenant measurement facilities including one automatic and three manual control valves, and approximately 1.3 miles of new permanent access roads, all within MRT's East Unionville Storage Field (East Unionville) in Lincoln Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, MRT proposes to construct, own and operate the four new wells and appurtenant facilities for the purpose of recovering non-effective gas and restoring late season deliverability for MRT's customers. Pursuant to the requirements of section 157.213(b) of the Commission's regulations, the proposed facilities will not impact the total inventory, pressure, boundaries, or certificated capacity of East Unionville. MRT projects that after successful completion of the project, it will be able to increase its mid-to late-season deliverability from 340 MMcf/d to 390 MMcf/d.[2] As MRT is obligated by Article 7.4 of its 2001 Uncontested Stipulation and Agreement in Docket Nos. TM00–1-25–000, *et al.*, and RP01–292–000, *et al.*, to restore the late season deliverability and to bear all costs incurred to meet customer deliverability requirements,[3] MRT is not requesting rolled-in rate treatment for the approximately $15.9 million cost associated with the construction of the proposed facilities. These costs will be recorded and maintained in a separate account to be excluded from MRT's rate base in any future rate case.

Any questions regarding this application should be directed to Lawrence O. Thomas, Director, Rate & Regulatory, CenterPoint Energy-Mississippi River Transmission Corporation, P.O. Box 21743, Supervisor—Rate & Regulatory, CenterPoint Energy Gas Transmission Company, P.O. Box 21734, Shreveport, Louisiana 71151, or call (318) 429–2804, FAX (318) 429–3133.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: October 14, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–19823 Filed 8–26–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8708–9]

Clean Water Act Section 303(d): Availability of 30 Modified Total Maximum Daily Loads (TMDLs) in Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record files for 30 modified TMDLs and the calculations for these TMDLs prepared by EPA Region 6 for waters listed in the Lower, Middle, and Upper Terrebonne Basins, under section 303(d) of the Clean Water Act (CWA). These TMDLs were completed in response to the court order styled *Sierra Club, et al.* v. *Clifford, et al.*, No. 96–0527, (E.D. La.).

DATES: Comments must be submitted in writing to EPA on or before September 26, 2008.

ADDRESSES: Comments on the 30 modified TMDLs should be sent to Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733 or e-mail: *smith.diane@epa.gov.* For further information, contact Diane Smith at (214) 665–2145 or fax (214) 665–7373. The administrative record files for these TMDLs are available for public inspection at this address as well. Documents from the administrative record file may be viewed at *http://www.epa.gov/region6/water/npdes/tmdl/index.htm,* or obtained by calling or writing Ms. Smith at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA originally established these TMDLs pursuant to a consent decree entered in this lawsuit. EPA has modified these TMDLs.

EPA Seeks Comments on 30 Modified TMDLs

By this notice EPA is seeking comment on the following 30 modified TMDLs for waters located within the Terrebonne basin:

Subsegment	Waterbody name	Pollutant
120102	Bayou Poydras	Dissolved Oxygen and Nutrients.
120103	Bayou Choctaw	Dissolved Oxygen, Nitrogen, Phosphorus, and Nutrients.
120105	Chamberlin Canal	Dissolved Oxygen, Nitrogen, Phosphorus, and Nutrients.

[2] MRT's certificated maximum withdrawal volume is 480,000 Mcf/d [51 FPC ¶ 1,866 (1974)].

[3] 98 FERC ¶ 61,021 (2002).

Subsegment	Waterbody name	Pollutant
120106	Bayou Plaquemine	Dissolved Oxygen and Nutrients.
120107	Upper Grand River and Lower Flat River—Headwaters to Intracoastal Waterway.	Dissolved Oxygen.
120109	Intracoastal Waterway—in Morgan City to Port Allen Route—Port Allen Locks to Bayou Sorrel Locks.	Dissolved Oxygen and Nutrients.
120110	Bayou Cholpe—Headwaters to Bayou Choctaw	Dissolved Oxygen.
120202	Bayou Black—Intracoastal Waterway to Houma	Dissolved Oxygen and Nutrients.
120204	Lake Verret and Grassy Lake	Dissolved Oxygen and Nutrients.
120304	Intracoastal Waterway—Houma to Larose	Dissolved Oxygen and Nutrients.
120403	Intracoastal Waterway—Bayou Boeuf	Dissolved Oxygen.
120604	Bayou Blue—Intracoastal Waterway to boundary between segments 1206 and 1207.	Dissolved Oxygen.
120401	Bayou Penchant—Bayou Chene to Lake Penchant	Dissolved Oxygen.
120404	Lake Penchant	Dissolved Oxygen.
120405	Lake Hatch and Lake Theriot	Dissolved Oxygen and Nutrients.
120406	Lake de Cade	Dissolved Oxygen and Nutrients.

EPA previously requested the public to provide EPA with any significant data or information that might impact the original 30 TMDLs in **Federal Register** Notices: Volume 72, Number 206, pages 60666 and 60667 (October 25, 2007); Volume 72, Number 209, pages 61355 and 61356 (October 30, 2007); Volume 73, Number 22, pages 6178 and 6179 (February 1, 2008).

EPA now requests that the public provide any water quality related data and information that may be relevant to the calculations for these 30 modified TMDLs. EPA will review all data and information submitted during the public comment period and revise the modifications to the TMDLs where appropriate. EPA will then forward the modified TMDLs to the Louisiana Department of Environmental Quality (LDEQ). The LDEQ will incorporate the modified TMDLs into its current water quality management plan.

Dated: August 20, 2008.

James R. Brown,

P.G., Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. E8–19863 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8709–1]

National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will convene a meeting on the date and time described below. All meetings are open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about registering for public comment, please see **SUPPLEMENTARY INFORMATION.**

DATES: The NEJAC will convene an open meeting via teleconference call on Thursday, September 11, 2008, from 2 p.m. to 4 p.m. (all times noted are Eastern Time). Due to limited telephone lines, all members of the public who wish to attend the teleconference meeting or to provide public comment must register in advance, no later than Monday, September 8, 2008.

ADDRESSES: Because this meeting will be held via teleconference call, there is no physical location where members of the public can listen in. To attend, you must register in advance. See **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Pre-registration for all attendees is required. Because this meeting is conducted via teleconference call, online registrations will not be accepted. Rather, requests should be sent to Ms. Julianne Pardi of ICF International at: 33 Hayden Avenue, 3rd Floor, Lexington, MA 02421; Telephone: (781) 676–4010; E-mail: *jpardi@icfi.com,* or FAX: (781) 676–4005. Please provide name, organization, and telephone number for follow-up as necessary.

Correspondence concerning the meeting should be sent to Ms. Victoria Robinson, NEJAC Program Manager, U.S. Environmental Protection Agency, at 1200 Pennsylvania Avenue, NW., (MC2201A), Washington, DC 20460; via e-mail at *environmental-justice-epa@epa.gov;* by telephone at (202) 564–6349; or by FAX at (202) 564–1624. Additional information about the meeting is available at the Internet Web site: *http://www.epa.gov/compliance/environmentaljustice/nejac/meetings.html.*

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, ''advice about EPA's progress, quality and adequacy in planning, developing and implementing environmental justice strategies, projects and programs'' relating to environmental justice. The purpose of the teleconference meeting is to review progress made by the Goods Movement Work Group and the State Environmental Justice Grant Program Work Group.

Public Comment: Individuals or groups making oral presentations during the public comment period will be limited to a total time of five minutes. Only one representative of a community, an organization, or a group will be allowed to speak. Any number of written comments can be submitted for the record. The suggested format for individuals making public comment should be as follows: Name of Speaker, Name of Organization/Community, Address/Telephone/E-mail, Description of Concern and its relationship to the policy issue(s), and Recommendations or desired outcome. Written comments received by September 8, 2008, will be included in the materials distributed to the members of the NEJAC. Written comments received after that date will be provided to the NEJAC as logistics allow. All information should be sent to the address, e-mail, or fax number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Information About Services for the Handicapped: Individuals requiring accommodations for a disability should contact Ms. Julianne Pardi by September

8, 2008, so that appropriate arrangements can be made to facilitate their participation. For information about services for the disabled or to request special assistance at the meeting, contact Ms. Pardi as soon as possible. All requests should be sent to the address, e-mail, or fax number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: August 21, 2008.

Charles Lee,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. E8–19862 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0837;FRL–8377–3]

Malathion; Order Amending Registration to Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is granting a registrant's voluntary request for amendments to terminate certain uses of products containing the pesticide malathion, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows a March 18, 1991 **Federal Register** Notice of Receipt of Requests to amend the registration of Fyfanon Technical, EPA Reg. No. 4787–5, to terminate certain uses. The requested amendments would not terminate all uses of malathion products registered for use in the United States. In the March 18, 1991 notice, EPA indicated that it intended to approve the requested amendments to terminate uses. Today's order does not terminate all of the uses identified in the March 18, 1991 notice, because Cheminova A/S and the Interregional Research Project No. 4 (IR–4) adequately supported certain uses. Accordingly, EPA hereby grants, in part, the requested registration amendments and orders the termination of the uses identified in Unit II. Any distribution, sale, or use of Fyfanon Technical, EPA Reg. No. 4787–5, is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The uses of Fyfanon Technical, EPA Reg. No. 4787–5, described in Unit II of this cancellation order are cancelled effective August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Eric Miederhoff, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8028; fax number: (703) 308–7070; e-mail address: *miederhoff.eric@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. 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–2007–0837. 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. What Action is the Agency Taking?

EPA is ordering the cancellation of certain uses of Fyfanon Technical, EPA Reg. No. 4787–5, pursuant to the registrant's voluntary request for cancellation. The registrant of Fyfanon Technical is Cheminova A/S., 1600 Wilson Blvd., Suite 700 Arlington, VA 22209.

Uses of Fyfanon Technical Terminated by this Order

1. *Food crops*: Almond (preharvest and postharvest), lentils, cranberry, filbert, cowpea forage and hay, pea vine and hay, soybean, safflower, peanuts (preharvest and postharvest), beet (sugar), sunflower (postharvest), rice (postharvest treatment), greenhouse food uses, and plum, prune.

2. *Non food uses*: Tobacco, forest trees.

3. *Other uses*: Field and garden seeds; grapes (post harvest use on raisin drying trays); bagged citrus pulp; cattle feed concentrate blocks (non-medicated); direct animal and livestock treatments including pet and domestic animal uses for beef cattle, cats, chickens, dairy cattle (lactating and nonlactating), dogs, ducks, geese, goats, hogs, horses (including ponies), pigeons, sheep and turkeys; animal premise uses for dairy and livestock barns, stables and pens, feed rooms, poultry houses, manure piles, kennels, rabbits on wire, beef cattle feed lots and holding pens, cat and dog sleeping quarters; poultry houses, human clothing (woolens and other fabrics); mattresses; and commercial and industrial uses for bagged flour; cereal processing plants, dry milk processing plants, eating establishments, food processing plants, packaged cereals, pet foods and feed stuff.

III. Summary of Public Comments Received and Agency Response to Comments

On March 18, 1991, EPA published in the **Federal Register** a notice of receipt of voluntary requests for termination of uses from all registrants of technical malathion, specifically American Cyanamid Company and Cheminova A/S (56 FR 11420); (FRL–3874–4). American Cyanamid Company subsequently cancelled all uses of its malathion products, and is therefore not addressed in this order.

Following the March 18, 1991 notice, Cheminova provided data to support a number of the food uses that it had previously asked to terminate. These uses are wild rice, barley, oat, rye, kumquat, lemon, lime, tangerine, endive, squash, gooseberries, currant, eggplant, garlic, shallot, lespedeza hay, vetch hay, and leeks. Additionally, stored commodity treatments for barley and corn received subsequent support. Cheminova has either submitted, or has committed to submit, data sufficient to support the reregistration of these uses. The Interregional Research Project No. 4 (IR-4) also submitted data sufficient to support reregistration of the use of malathion on cauliflower, kale, dandelion, parsley, boysenberry, dewberry, loganberry, kohlrabi, spinach, pumpkins, melons, watercress, walnuts, pineapple, papaya, passion fruit, peaches, apricots, nectarines,

macadamia, blackberry, raspberries, broccoli, Brussels sprouts, cabbage, collards, carrots, okra, guava, hops, fig, chestnut, chayote, turnip, pea, mustard green, beets (garden), horseradish, parsnip, rutabaga, radish, salsify, sweet potato, mint, and asparagus. Although, IR–4 also endeavored to support the use of malathion on flax, apples, quince, celery, and swiss chard, the data submitted did not prove wholly adequate to support reregistration of these uses. As these uses were supported during the development of the malathion Reregistration Eligibility Decision (RED), EPA will accept the submission of data specified in the RED as necessary to maintain the registration of these uses.

The malathion uses identified in Unit II above remain unsupported. Cheminova did not withdraw its voluntary request for termination of these uses, and no other party has committed to produce data sufficient to support these uses. Cheminova did not commit to support the reregistration of these uses and did not submit supporting data as required in phases 2 and 3 of reregistration (FIFRA section 4(d) and (e)), and so, these uses were not fully evaluated in the malathion Reregistration Eligibility Decision. Accordingly, EPA hereby grants, in part, the requested registration amendments and orders the termination of the malathion uses identified in Unit II above.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendments to terminate those uses of malathion identified in Unit II above. Accordingly, the Agency orders that the registration of Fyfanon Technical, EPA Reg. No. 4787–5, is hereby amended to terminate the uses identified in Unit II above. Any distribution, sale, or use of existing stocks of Fyfanon Technical, EPA Reg. No. 4787–5, in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI below. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

1. The registrant may continue to sell and distribute existing stocks of Fyfanon Technical, EPA Reg. No. 4787–5, with previously approved labeling that includes uses terminated by this cancellation order, until February 27, 2009.

2. Persons other than the registrant may continue to sell and/or distribute existing stocks of Fyfanon Technical, EPA Reg. No. 4787–5, with previously approved labeling that includes the terminated uses until such stocks are exhausted.

3. Persons other than the registrant may continue to use existing stocks of Fyfanon Technical, EPA Reg. No. 4787–5, with previously approved labeling that includes the terminated uses, provided that they are not used to formulate products labeled for any use described in Unit II. of this cancellation order, until such stocks are exhausted.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 13, 2008.

Steven Bradbury,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E8–19762 Filed 8–26–08; 8:45 a.m.]

Billing Code 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0607; FRL–8378–8]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any currently registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before September 26, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0607, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0607. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available

at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Andrew Bryceland, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6928; e-mail address: *bryceland.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Registration Applications

EPA received an application as follows to register a pesticide product containing a new active ingredient not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Product Containing a New Active Ingredient not Included in any Previously Registered Product

File Symbol: 7969–EIE. *Applicant*: BASF Corporation, P.O. Box 13528, Research Triangle Park, NC, 27709. *Product name*: n-Tetradecyl Acetate Technical Pheromone. *Type of product*: Straight Chain Lepidopteran Pheromone. *Active ingredient*: n-tetradecyl acetate at 99.56%. *Proposal classification/Use*: Manufacturing use.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: August 14, 2008.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E8–19751 Filed 8–26–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0540;FRL–8378–4]

Bromonitrostyrene: Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by September 26, 2008 for registrations for which the registrant requested a waiver of the 180–day comment period, orders will be issued canceling these registrations. The Agency will consider withdrawal requests postmarked no later September 26, 2008, whichever is applicable. Comments must be received on or before September 26, 2008.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2007–0540, by one of the following methods:

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

arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0540. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT:

ShaRon Carlisle, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–6427; e-mail address: *sharon.carlisle@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel the active ingredient bromonitrostyrene; there are six (6) pesticide products registered under section 3 or 24(c) of FIFRA for this active ingredient. These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit:

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
464–683	Giv-Gard BNS 25% AF	Bromonitrostyrene
464–684	Bioban BNS 25% BA Industrial Preservative	Bromonitrostyrene
464–686	Canguard 777 Industrial Preservative	Bromonitrostyrene
74655–5	Spectrum R-41	Bromonitrostyrene
74655–8	Spectrum RX-45	Bromonitrostyrene

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
74655–13	Spectrum RX-52	Bromonitrostyrene

A request to waive the 180-day comment period has been received for registration numbers 464–683, 464–684, 464–686, 74655–5, 74655–8 and 74655–13. Therefore, the 30 day comment period will apply for these registrations.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 30–day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
464	The Dow Chemical Company 1500 E. Lake Cook Road Buffalo Grove,IL 60089
74655	Hercules Incorporated Paper Technology and Ventures 7910 Baymeadows Way Jacksonville, FL 32256

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before September 26, 2008. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Antimicrobials, Bromonitrostyrene.

Dated: August 20, 2008.

Mark A. Hartman,

Acting Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E8–19760 Filed 8–26–08; 8:45 a.m.]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Approved by the Office of Management and Budget

August 20, 2008.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid OMB control number. Comments concerning the accuracy of the burden estimate(s) and any suggestions for reducing the burden should be directed to the person listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, Performance and Evaluation Records Management Division, Office of the Managing Director, at (202) 418–2918 or at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0027.

OMB Approval Date: August 8, 2008.

Expiration Date: August 31, 2011.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form Number: FCC Form 301.

Estimated Annual Burden: 4,278 responses; 2–5 hours per response; 11,072 hours total per year.

Annual Cost Burden: $51,802,197.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 154(i), 303

and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: On December 18, 2007, the Commission adopted a Report and Order and Order on Reconsideration (''Quadrennial Order'') in its 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 06–121, FCC 07–216. Section 202 requires the Commission to review its broadcast ownership rules every four years and determine whether any of such rules are necessary in the public interest. Further, Section 202 requires the Commission to repeal or modify any regulation it determines to be no longer in the public interest.

FCC Form 301 and the applicable exhibits/explanations are required to be filed when applying for authority to construct a new commercial AM, FM, or TV broadcast station or to make changes in the existing facilities of such a station. The instructions and a worksheet included with Form 301 have been revised to reflect the changes to the daily newspaper cross-ownership rule, 47 CFR 73.3555(d) that the Commission adopted in the Quadrennial Order. The rule change to section 73.3555(d) of the Commission's rules was published in the **Federal Register** on February 21, 2008 (73 FR 9481) and became effective on July 9, 2008 (73 FR 39269).

The instructions for Section II (Legal Information) to Form 301 have been revised to include a reference to the Quadrennial Order as a source of information regarding the Commission's multiple ownership rules and attribution rules in order for applicants to determine relevant parties to the application. Worksheet #2, Section A.IV. (Cross Ownership) and Section B (Family Relationships), which applicants use to respond to Section II, Item 4 (Multiple Ownership) of Form 301, have been revised to incorporate the new newspaper/broadcast cross-ownership rule, 47 CFR 73.3555(d) and the revised definition of a '''Daily Newspaper,'' Note 6 to 47 CFR 73.3555, that the Commission adopted in the Quadrennial Order. An applicant uses Worksheet #2 to determine the circumstances under which an entity may own a daily newspaper and a broadcast station in the same local market.

47 CFR 73.3555(d) (daily newspaper cross-ownership rule) states:

(1) No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls a daily newspaper and the grant of such license will result in: (i) The predicted or measured 2 mV/m contour of an AM station, computed in accordance with Sec. 73.183 or Sec. 73.186, encompassing the entire community in which such newspaper is published; or (ii) The predicted 1 mV/m contour for an FM station, computed in accordance with Sec. 73.313, encompassing the entire community in which such newspaper is published; or (iii) The Grade A contour of a TV station, computed in accordance with Sec. 73.684, encompassing the entire community in which such newspaper is published.

(2) Paragraph (1) shall not apply in cases where the Commission makes a finding pursuant to Section 310(d) of the Communications Act that the public interest, convenience, and necessity would be served by permitting an entity that owns, operates or controls a daily newspaper to own, operate or control an AM, FM, or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1).

(3) In making a finding under paragraph (2), there shall be a presumption that it is not inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper in a top 20 Nielsen DMA and one commercial AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1), provided that, with respect to a combination including a commercial TV station: (i) The station is not ranked among the top four TV stations in the DMA, based on the most recent all-day (9 a.m.–midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and (ii) At least 8 independently owned and operated major media voices would remain in the DMA in which the community of license of the TV station in question is located (for purposes of this provision major media voices include full-power TV broadcast stations and major newspapers).

(4) In making a finding under paragraph (2), there shall be a presumption that it is inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper and an AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1) in a DMA other than the top 20 Nielsen DMAs or in any circumstance not covered under paragraph (3).

(5) In making a finding under paragraph (2), the Commission shall consider: (i) Whether the combined entity will significantly increase the amount of local news in the market; (ii) whether the newspaper and the broadcast outlets each will continue to employ its own staff and each will exercise its own independent news judgment; (iii) the level of concentration in the Nielsen Designated Market Area (DMA); and (iv) the financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station is in financial distress, the proposed owner's commitment to invest significantly in newsroom operations.

(6) In order to overcome the negative presumption set forth in paragraph (4) with respect to the combination of a major newspaper and a television station, the applicant must show by clear and convincing evidence that the co-owned major newspaper and station will increase the diversity of independent news outlets and increase competition among independent news sources in the market, and the factors set forth above in paragraph (5) will inform this decision.

(7) The negative presumption set forth in paragraph (4) shall be reversed under the following two circumstances: (i) the newspaper or broadcast station is failed or failing; or (ii) the combination is with a broadcast station that was not offering local newscasts prior to the combination, and the station will initiate at least seven hours per week of local news programming after the combination. Note 6 to 47 CFR 73.3555 states: For purposes of this section a daily newspaper is one which is published four or more days per week, which is in the dominant language in the market, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

47 CFR 73.3580 requires that applicants for construction permits for new broadcast stations and for major change in existing broadcast facilities (as defined in 47 CFR 73.3571(a)(1) (for AM applicants), 73.3572(a)(1) (for television applicants), or 73.3573(a)(1) (for FM applicants)) give local notice in a newspaper of general circulation in the community to which the station is licensed. This publication requirement also applies with respect to major amendments as defined in 47 CFR 73.3571(b) (AM), 73.3772(b) (television), and 73.3573(b) (FM). This publication

requirement also applies with respect to applications for minor modification to existing AM and FM facilities in which the applicant seeks to change the existing facility's community of license. Local notice is also required to be broadcast over the station, if operating. However, if the station is the only operating station in its broadcast service licensed to the community involved, publication of the notice in a newspaper is not required. Completion of publication may occur within 30 days before or after the tender of the application to the Commission.

This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in a broadcast station's public inspection file along with the application. The Commission's actions in this proceeding did not revise this requirement.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–19886 Filed 8–26–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 08–1865]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. William Holman from the schools and libraries universal service support mechanism (or ''E-Rate Program'') for a period of three years based on his conviction of bid rigging in connection with his participation in the program. The Bureau takes this action to protect the E-Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. William Holman receives the debarment letter or August 27, 2008, whichever date come first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Rebekah Bina, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Rebekah Bina may be contacted by phone at (202) 418–7931 or e-mail at *Rebekah.Bina@fcc.gov*. If Ms. Bina is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. William Holman from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111. Attached is the debarment letter, DA 08–1865, which was mailed to Mr. William Holman and released on August 7, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov*. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com*.

Federal Communications Commission.

Vickie Robinson,

Assistant Chief, Investigations and Hearings Division, Enforcement Bureau.

The debarment letter, which attached the suspension letter, follows:

August 7, 2008.

DA 08–1865

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND FACSIMILE (415–773–5759)

Mr. William Holman, c/o Walter F. Brown, Jr., Esq., Orrick, Herrington & Sutcliffe, LLP, The Orrick Building, 405 Howard Street, San Francisco, CA 94105–2669

Re: Notice of Debarment, File No. EB–08–IH–1142

Dear Mr. Holman: Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E-Rate program'') for a period of three years.[1]

On May 19, 2008, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'')[2] as a result of your guilty plea and subsequent conviction of bid-rigging, in violation of 15 U.S.C. 1, for your activities as former Vice President of NEC-Business Network Services (''NEC–BNS'') in connection with the Ceria Travis Academy E-Rate project (''Project''). You responded through counsel on June 13, 2008,[3] contesting certain language in the Notice of Suspension, specifically, that you ''entered into and engaged in a conspiracy with NEC–BNS and other co-conspirators to suppress and eliminate competition by submitting non-competitive bids for the Project and taking steps to ensure the Project was awarded to NEC–BNS and co-conspirators.''[4] Citing the Plea Agreement, you clarified that it was NEC–BNS employees other than yourself that submitted non-competitive bids and that employees of another company took steps to ensure the success of the conspiracy by discouraging and disqualifying bids from non-conspirators.[5] You further assert, among other things, that you entered into what you understood to be a lawful agreement, and that you ''subsequently became aware of problems with NEC–BNS's participation in the E-Rate program and raised these concerns with [your] superiors.''[6] In the Response, you do not dispute that you pled guilty to a violation of 15 U.S.C. 1, but request that the Commission's record reflect the factual circumstances surrounding your offense.[7]

We grant your request and incorporate the cited Plea Agreement language in the record for this debarment proceeding. Based on the evidence in the record, we conclude that your conduct, as described in the Plea Agreement, constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of

[1] See 47 CFR 0.111(a)(14), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. William Holman, Notice of Suspension and Initiation of Debarment Proceedings, 23 FCC Rcd 8228 (Inv. & Hearings Div., Enf. Bur. 2008) (Attachment 1); see 73 Fed. Reg. 36082 (Jun. 25, 2008).

[3] Letter from Walter F. Brown, Jr., Orrick, Herrington & Sutcliffe, LLP to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated June 13, 2008 (''Holman Response'' or ''Response''), attaching *United States* v. *William Holman*, Criminal Docket No. 3:05–CR–00208–CRB–012, Plea Agreement (N.D.Cal. filed and entered Apr. 6, 2007) (''Plea Agreement'').

[4] Holman Response at 1; Notice of Suspension at 23 FCC Rcd at 8229.

[5] Holman Response at 1, citing Plea Agreement, para. 4(f).

[6] Id. at 2, citing Plea Agreement, para. 4(g).

[7] Id. at 2.

[8] 47 CFR 54.8(c).

your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.'' [10]

Sincerely,

Hillary S. DeNigro,
Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail); Michael Wood, Antitrust Division, United States Department of Justice

May 19, 2008

DA 08–1183

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED AND FACSIMILE (415–773–5759)

Mr. William Holman,
c/o Melinda Haag, Esq.,
Orrick, Herrington & Sutcliffe, LLP,
The Orrick Building,
405 Howard Street,
San Francisco, CA 94105–2669

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–08–IH–1142

Dear Mr. Holman: The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction of bid rigging, in violation of 15 U.S.C. 1, in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[1] Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[2]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[3] You pled guilty to bid rigging in connection with your participation in the Ceria Travis Academy E-Rate project (the ''Project'').[4] Specifically, you admitted that, as former vice president of sales for NEC Business Networks, Inc. (''NEC–BNS''), you entered into and engaged in a conspiracy with NEC–BNS and other co-conspirators to suppress and eliminate competition by submitting non-competitive bids for the Project and taking steps to ensure that the Project was awarded to NEC–BNS and co-conspirators.[5]

Pursuant to section 54.8(a)(4) of the Commission's rules,[6] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[7] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[8]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[9] Such requests, however, will not ordinarily be granted.[10] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[11] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[12]

II. Initiation of Debarment Proceedings

Your guilty plea and conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[13]

[9] See Notice of Suspension, 23 FCC Rcd at 8230.

[10] See 47 CFR 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 23 FCC Rcd at 8231.

[1] Any further reference in this letter to ''your conviction'' refers to your guilty plea and subsequent conviction of bid rigging. See *United States* v. *William Holman,* Criminal Docket No. 3:05–CR–00208–CRB–012, Judgment (N.D. Cal. filed Apr. 9, 2008 and entered Apr. 9, 2008) (''Holman Judgment''), Substitute Information (N.D.Cal. filed and entered Apr. 5, 2007) (''Holman Substitute Information''). See also generally United States v. Video Network Communications, Inc. et al., Criminal Docket No. 3:05–CR–00208–CRB, Superseding Indictment (N.D. Cal. filed Dec. 8, 2005 and entered Dec. 12, 2005), *http://www.usdoj.gov/atr/cases/f213600/213626.htm* (accessed May 1, 2008) (''VNCI Superseding Indictment'').

[2] 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. See Schools and Libraries Universal Service Support Mechanism, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''Second Report and Order'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (Program Management Order) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[3] See Second Report and Order, 18 FCC Rcd at 9225, para. 66; Program Management Order, 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[4] See Holman Judgment at 1; Holman Substitute Information at para. 4.

[5] See id. The Commission debarred NEC–BNS in 2006 for the company's wire fraud and bid rigging conviction. See NEC Business Network Solutions, Inc., Notice to Debarment, 21 FCC Rcd 7491 (2006); 71 FR 42398 (2006). The following four individuals, who were also charged in the VNCI Superseding Indictment, have pled guilty or been found guilty, and subsequently sentenced: Judy Green, Earl Nelson, George Marchelos, and Allan Green. We are sending separate notices of suspension and initiation of debarment proceedings to these individuals. VNCI is now defunct and charges against the company have been dropped.

[6] 47 CFR 54.8(a)(4). See Second Report and Order, 18 FCC Rcd at 9225–9227, paras. 67–74.

[7] 47 CFR 54.8(a)(1), (d).

[8] Second Report and Order, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[9] 47 CFR 54.8(e)(4).

[10] Id.

[11] 47 CFR 54.8(e)(5).

[12] See Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[13] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding

Continued

Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[14] Absent extraordinary circumstances, the Bureau will debar you.[15] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[16] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[17]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[18] The Bureau may, if necessary to protect the public interest, extend the debarment period.[19]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *diana.lee@fcc.gov* and to *vickie.robinson@fcc.gov.*

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

Sincerely yours,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail) Michael Wood, Antitrust Division, United States Department of Justice

[FR Doc. E8–19876 Filed 8–26–08; 8:45 am]

BILLING CODE 6712–01–P

[the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[14] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[15] *Second Report and Order,* 18 FCC Rcd at 9227, para. 74.

[16] *See id.,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[17] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[18] *Second Report and Order,* 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[19] *Id.*

FEDERAL COMMUNICATIONS COMMISSION

[DA 08–1864]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. George Marchelos from the schools and libraries universal service support mechanism (or ''E-Rate Program'') for a period of three years based on his conviction of wire fraud and aiding and abetting, as well as collusion and siding and abetting in connection with his participation in the program. The Bureau takes this action to protect the E-Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. George Marchelos receives the debarment letter or August 27, 2008, whichever date comes first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Rebekah Bina, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Rebekah Bina may be contacted by phone at (202) 418–7931 or e-mail at *Rebekah.Bina@fcc.gov.* If Ms. Bina is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. George Marchelos from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111. Attached is the debarment letter, DA 08–1864, which was mailed to Mr. George Marchelos and released on August 7, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Vickie Robinson,

Assistant Chief, Investigations and Hearings Division, Enforcement Bureau.

The debarment letter, which attached the suspension letter, follows:

August 7, 2008

DA 08–1864

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND FACSIMILE (415–436–7706)

Mr. George Marchelos,
c/o Geoffrey A. Hanson, Esq.,
Federal Public Defender,
19th Floor Federal Building—Box 36106,
450 Golden Gate Avenue,
San Francisco, CA 94102.

Re: Notice of Debarment, File No. EB–08–IH–1140

Dear Mr. Marchelos:

Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism

(or ''E-Rate program'') for a period of three years.[1]

On May 19, 2008, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on June 9, 2008.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the **Federal Register**.[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, you pled guilty to and were convicted of wire fraud and aiding and abetting, in violation of 18 U.S.C. 1343 and 2, as well as collusion and aiding and abetting, in violation of 15 U.S.C. 1 and 2, in connection with your participation in the E-Rate program.[6] You admitted that you participated in schemes to defraud the E-Rate program and bid rigging on E-Rate projects for certain school districts.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.''[10]

Sincerely,

Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail) Michael Wood, Antitrust Division, United States Department of Justice (via mail)

May 19, 2008

DA 08–1181

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED AND FACSIMILE (415–436–7706)

Mr. George Marchelos, c/o Geoffrey A. Hanson, Esq., Federal Public Defender, 19th Floor Federal Building–Box 36106, 450 Golden Gate Avenue, San Francisco, CA 94102.

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–08–IH–1140

Dear Mr. Marchelos:

The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction of wire fraud and aiding and abetting, in violation of 18 U.S.C. 1343 and 2, as well as collusion and aiding and abetting, in violation of 15 U.S.C. 1 and 2, in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[11] Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[12]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[13] You pled guilty to wire fraud and collusion in connection with your participation in two schemes to defraud the E-Rate program.[14] Specifically, you admitted that, as a former consultant for two school districts in California and sales representative of Video Network Communications, Inc. (''VNCI''), you participated in schemes to defraud the E-rate program and bid rigging on E-rate projects for certain school districts in favor of other co-conspirators or defendants.[15]

Pursuant to section 54.8(a)(4) of the Commission's rules,[16] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers

[1] *See* 47 CFR 0.111(a), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. George Marchelos, Notice of Suspension and Initiation of Debarment Proceedings, 23 FCC Rcd 8219 (Inv. & Hearings Div., Enf. Bur. 2008) (Attachment 1).

[3] 73 FR 32577 (June 9, 2008).

[4] *See* Notice of Suspension, 23 FCC Rcd at 8220–22.

[5] *See* 47 CFR 54.8 (e)(3) and (4). That date occurred no later than July 9, 2008. *See supra* note 3.

[6] *See* Notice of Suspension, 23 FCC Rcd at 8219–20.

[7] *See* id. at 8220.

[8] 47 CFR 54.8(c).

[9] *See* 47 CFR 54.8(g). *See also* Notice of Suspension, 23 FCC Rcd at 8221.

[10] *See* 47 CFR 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 23 FCC Rcd at 8221–22.

[11] Any further reference in this letter to ''your conviction'' refers to your guilty plea and subsequent conviction. *United States* v. *George Marchelos*, Criminal Docket No. 3:05–CR–00208–CRB–009, Judgment (N.D.Cal. filed and entered Apr. 10, 2008) (''*George Marchelos Judgment*''). *See United States* v. *Video Network Communications, Inc., et al.*, Criminal Docket No. 3:05–CR–00208–CRB, Superseding Indictment at paras. 72–88 (N.D.Cal. filed Dec. 8, 2005 and entered Dec. 12, 2005), *http://www.usdoj.gov/atr/cases/f213600/213626.htm* (accessed May 1, 2008) (''*VNCI Superseding Indictment*'').

[12] 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. *See Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''*Second Report and Order*'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[13] *See Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[14] *See George Marchelos Judgment* at 1.

[15] *See VNCI Superseding Indictment* at paras. 6, 72–88. The following four individuals, who were also charged in the *VNCI Superseding Indictment*, have pled guilty or been found guilty and subsequently sentenced: Judy Green, Earl Nelson, William Holman, and Allan Green. We are sending separate notices of suspension and initiation of debarment proceedings to these individuals. VNCI is now defunct and charges against the company have been dropped.

[16] 47 CFR 54.8(a)(4). *See Second Report and Order*, 18 FCC Rcd at 9225–9227, paras. 67–74.

regarding the schools and libraries support mechanism.[17] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[18]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[19] Such requests, however, will not ordinarily be granted.[20] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[21] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[22]

II. Initiation of Debarment Proceedings

Your guilty plea and conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[23] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[24] Absent extraordinary circumstances, the Bureau will debar you.[25] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[26] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[27]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[28] The Bureau may, if necessary to protect the public interest, extend the debarment period.[29]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *diana.lee@fcc.gov* and to *vickie.robinson@fcc.gov.*

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

Sincerely,

Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail) Michael Wood, Antitrust Division, United States Department of Justice (via mail)

[FR Doc. E8–19877 Filed 8–26–08; 8:45 am]

BILLING CODE 6712–01–P

[17] 47 CFR 54.8(a)(1), (d).

[18] *Second Report and Order*, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[19] 47 CFR 54.8(e)(4).

[20] *Id.*

[21] 47 CFR 54.8(e)(5).

[22] *See Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[23] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[24] *See Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[25] *Second Report and Order*, 18 FCC Rcd at 9227, para. 74.

[26] *See id.*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[27] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[28] *Second Report and Order*, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[29] *Id.*

FEDERAL COMMUNICATIONS COMMISSION

[DA 08–1863]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. Earl Nelson from the schools and libraries universal service support mechanism (or ''E–Rate Program'') for a period of three years based on his conviction of collusion and aiding and abetting in connection with his participation in the program. The Bureau takes this action to protect the E–Rate Program from waste, fraud, and abuse.

DATES: Debarment commences on the date Mr. Earl Nelson receives the debarment letter or August 27, 2008, whichever date come first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Rebekah Bina, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Rebekah Bina may be contacted by phone at (202) 418–7931 or e-mail at *Rebekah.Bina@fcc.gov.* If Ms. Bina is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by

telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Earl Nelson from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111. Attached is the debarment letter, DA 08–1863, which was mailed to Mr. Earl Nelson and released on August 7, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying service during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Vickie Robinson,

Assistant Chief, Investigations and Hearings Division, Enforcement Bureau.

The debarment letter, which attached the suspension letter, follows:

August 7, 2008

DA 08–1863

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED AND FACSIMILE (415–621–4111)

Mr. Earl Nelson
c/o Richard B. Mazer, Esq.
Law Offices of Richard Mazer
99 Divisadero Street
San Francisco, CA 94117

Re: Notice of Debarment, File No. EB–08–IH–1138

Dear Mr. Nelson:

Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E–Rate program'') for a period of three years.[1]

On May 19, 2008, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on June 9, 2008.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the **Federal Register**.[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, you pled guilty to and were convicted of collusion and aiding and abetting, in violation of 15 U.S.C. 1 and 18 U.S.C. 2, in connection with your participation in the E–Rate program.[6] You admitted to entering into and engaging in a conspiracy to suppress and restrain competition by submitting collusive, noncompetitive, and rigged bids for an E–Rate project.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.''[10]

Sincerely,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)
Michael Wood, Antitrust Division, United States Department of Justice (via mail).

May 19, 2008

DA 08–1180

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED AND FACSIMILE (415–621–4111)

Mr. Earl Nelson
c/o Richard B. Mazer, Esq.
Law Offices of Richard Mazer
99 Divisadero Street
San Francisco, CA 94117
richardbmazer@yahoo.com

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–08–IH–1138

Dear Mr. Nelson:

The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction of collusion and aiding and abetting, in violation of 15 U.S.C. 1 and 18 U.S.C. 2, in connection with your participation in the schools and libraries universal service support mechanism (''E–Rate program'').[1] Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E–Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[2]

[1] See 47 CFR 0.111(a), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Earl Nelson, Notice of Suspension and Initiation of Debarment Proceedings, 23 FCC Rcd 8215 (Inv. & Hearings Div., Enf. Bur. 2008) (Attachment 1).

[3] 73 FR 32581 (June 9, 2008).

[4] See Notice of Suspension, 23 FCC Rcd at 8216–18.

[5] See 47 CFR 54.8 (e)(3) and (4). That date occurred no later than July 9, 2008. See supra note 3.

[6] See Notice of Suspension, 23 FCC Rcd at 8215–16.

[7] See id. at 8216.

[8] 47 CFR 54.8(c).

[9] See 47 CFR 54.8(g). See also Notice of Suspension, 23 FCC Rcd at 8217.

[10] See 47 CFR 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 23 FCC Rcd at 8217–18.

[1] Any further reference in this letter to ''your conviction'' refers to your guilty plea and subsequent conviction of collusion and aiding and abetting. *United States* v. *Earl Nelson,* Criminal Docket No. 3:05–CR–00208–CRB–011, Judgment (N.D.Cal. filed and entered Mar. 21, 2008) (''Earl Nelson Judgment''). See *United States* v. *Video Network Communications, Inc. et al.*, Criminal Docket No. 3:05–CR–00208–CRB, Superseding Indictment at paras. 79–80 (N.D.Cal. filed Dec. 8, 2005 and entered Dec. 12, 2005); *http://www.usdoj.gov/atr/cases/f213600/213626.htm* (accessed May 1, 2008) (''VNCI Superseding Indictment'').

[2] 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. See Schools and Libraries Universal Service Support Mechanism, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''Second Report and Order'') (adopting section 54.521 to suspend and debar parties from the E–rate

Continued

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[3] You pled guilty to collusion and aiding and abetting a scheme to defraud the E–Rate program.[4] You admitted that, as a former branch manager of Inter-Tel Technologies, you entered into and engaged in a conspiracy with other defendants and co-conspirators to suppress and restrain competition by submitting collusive, noncompetitive, and rigged bids for an E-Rate project at the West Fresno Elementary School District in Fresno, California.[5]

Pursuant to section 54.8(a)(4) of the Commission's rules,[6] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[7] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[8]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[9] Such requests, however, will not ordinarily be granted.[10] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[11] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[12]

II. Initiation of Debarment Proceedings

Your guilty plea and conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[13] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[14] Absent extraordinary circumstances, the Bureau will debar you.[15] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[16] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[17]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[18] The Bureau may, if necessary to protect the public interest, extend the debarment period.[19]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC, 20554. You shall also transmit a copy of the response via email to

program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (Program Management Order) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[3] See Second Report and Order, 18 FCC Rcd at 9225, para. 66; Program Management Order, 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[4] VNCI Superseding Indictment at paras. 79–80.

[5] See id. The Commission debarred Inter-Tel Technologies, Inc. in 2006 for the company's conviction for mail fraud and conspiracy to suppress and eliminate competition. See Inter-Tel Technologies, Inc., Notice to Debarment, 21 FCC Rcd 7506 (2006); 71 FR 42397 (2006). The following four individuals, who were also charged in the VNCI Superseding Indictment, have pled guilty or been found guilty and subsequently sentenced: Judy Green, George Marchelos, William Holman, and Allan Green. We are sending separate notices of suspension and initiation of debarment proceedings to these individuals.

[6] 47 CFR 54.8(a)(4). See Second Report and Order, 18 FCC Rcd at 9225–9227, paras. 67–74.

[7] 47 CFR 54.8(a)(1), (d).

[8] Second Report and Order, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[9] 47 CFR 54.8(e)(4).

[10] Id.

[11] 47 CFR 54.8(e)(5).

[12] See Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[13] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[14] See Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[15] Second Report and Order, 18 FCC Rcd at 9227, para. 74.

[16] See id., 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[17] Id. The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[18] Second Report and Order, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[19] Id.

diana.lee@fcc.gov and to *vickie.robinson@fcc.gov.*

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

Sincerely yours,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail) Michael Wood, Antitrust Division, United States Department of Justice (vial mail)

[FR Doc. E8–19878 Filed 8–26–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From August 22, 2008, Open Meeting

August 21, 2008.

The following items have been deleted from the list of Agenda items scheduled for consideration at the August 22, 2008, Open Meeting and previously listed in the Commission's Notice of August 15, 2008, 73 FR 49200, August 20, 2008. Item No. 3 has been adopted by the Commission.

Item No.	Bureau	Subject
1	Wireless Tele-Communications.	Title: Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers (WT Docket No. 05–265). Summary: The Commission will consider a Memorandum Opinion and Order on Reconsideration addressing petitions for reconsideration of the Report and Order.
3	Media	Title: Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules. Summary: The Commission will consider a Fourth Report and Order concerning issues related to mandatory cable carriage of digital broadcast television signals after the conclusion of the digital ("DTV") transition.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E8–19982 Filed 8–25–08; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Scheduled for Friday, August 22, 2008, Cancelled

August 22, 2008.

The Federal Communications Commission has cancelled the Open Meeting on the subject listed below, and previously scheduled for Friday, August 22, 2008, at 445 12th Street, SW., Washington, DC. This item was previously listed in the Commission's Notice of August 15, 2008, 73 FR 49200, August 20, 2008.

Item No.	Bureau	Subject
2	Wireline Competition	Title: Implementation of the NET 911 Improvement Act. Summary: The Commission will consider a Notice of Proposed Rulemaking regarding implementation of the New and Emerging Technologies 911 Improvement Act of 2008.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E8–19981 Filed 8–26–08; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (*http://www.fmc.gov*) or contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010714–043.

Title: Trans-Atlantic American Flag Liner Operators Agreement.

Parties: American President Lines, Ltd.; American Roll-On Roll-Off Carrier, LLC; Maersk Line Limited; and Hapag-Lloyd USA, LLC.

Filing Party: Howard A. Levy, Esq.; 80 Wall Street, Suite 1117; New York, NY 10005.

Synopsis: The amendment deletes all authority for members to discuss or agree upon ocean port to port or other tariff rates or rules applicable to transportation between the United States and Europe.

Agreement No.: 011426–041.

Title: West Coast of South America Discussion Agreement.

Parties: APL Co. Pte Ltd.; Compania Chilena de Navigacion Interoceanica, S.A.; Compania Sud Americana de Vapores, S.A.; Frontier Liner Services, Inc.; Hamburg-Süd; King Ocean Services Limited, Inc.; Maruba S.C.A.; Mediterranean Shipping Company, S.A.; Seaboard Marine Ltd.; South Pacific Shipping Company, Ltd.; and Trinity Shipping Line.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment removes Hapag-Lloyd AG as a party to the agreement.

Dated: August 22, 2008.

By order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–19865 Filed 8–26–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR Part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicant:

Ltd. Interbrok Service, Didi Dighomi, III m b. Bldg. #6, Appt. #71, Tbilisi, Republic of Georgia 0183, Officer: David Nikiolaishvili, Director (Qualifying Individual).

Global American Line, 1421 Witherspoon Street, Rahway, NJ 07065, Officer: Wajid Ali, Sen. Vice President (Qualifying Individual).

JB Cargo, LLC., 1559 East Amar Road, Ste. J, West Covina, CA 91792, Officer: Simis-Emista P. Baquiran, Member Manager (Qualifying Individual).

Prologistics Inc., 9715 Carnegie Ave., El Paso, TX 79925, Officers: Carol A. Runnels, President, (Qualifying Individual) James S. Runnels, Vice President.

Worldwide Int'l Logistics Inc., 108 S. Franklin Ave., Ste. 17, Valley Stream, NY 11580, Officer: Bonnie Yang, Vice President (Qualifying Individual).

Champion Xpress Shipping Inc., 106–13 Liberty Ave., Ozone Park, NY 11417, Officer: Joel M. Perry, President (Qualifying Individual).

Ace Cargo International Inc., 11099 S. La Cienega Blvd., #265, Los Angeles, CA 90045, Officer: Bryan Choi, Vice President (Qualifying Individual).

ASL Global Logistics, 15836 Lee Road, Houston, TX 77032, Officers: Nidal Younes, Logistics Manager (Qualifying Individual), Wassim A. Agha, President.

Jude Shipping Line L.L.C., 1743 Park Center Drive, Orlando, FL 32835, Officers: Timothy A. Voit, Managing Member (Qualifying Individual), Fouad Ashdji, Managing Member.

AMA Freight USA LLC, 12290 Rojas Dr., #C, El Paso, TX 79936, Officers: Sergio Fernandez de Lara Mendoza, V. President (Qualifying Individual), Robert McLane, President.

Prestige Investment Group, Inc. dba Car-tainer, Inc., 4141 West 154th Street, Lawndale, CA 90260, Officers: Nadya Wilkinson, President (Qualifying Individual), LaFarria J. Wilkinson, Treasurer.

American NAV International Inc. dba Amerussia Shipping Company, 51 Chestnut Street, Rutherford, NJ 07070, Officer: Richard F. Shannon, President (Qualifying Individual).

Freightplus (USA), Inc., 4466 Karls Gate Drive, Marietta, GA 30068, Officers: Christopher J. Katcher, Secretary (Qualifying Individual), Steven Townsend, CEO.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Ice International, Inc., 725 Opportunity Drive, St. Cloud, MN 56301, Officers: Joseph M. Goering, Vice President, (Qualifying Individual), Rollie H. Anderson, President.

Concert Group Logistics, Inc., 1430 Branding Ave., Ste. 150, Downers Grove, IL 60515, Officer: Gerald Post, Exec. Vice President (Qualifying Individual).

Dependable Global Express, Inc., 19201 S. Susana Road, Rancho Dominguez, CA 90221, Officers: Bradley J. Dechter, President (Qualifying Individual), Ronald E. Massman, CEO.

Royalty Eximport, Inc., 8422 NW 70th Street, Miami, FL 33166, Officers: Clara L. Suarez, Vice President (Qualifying Individual), Gonzalo Rodriguez, President.

International Express Shipping Inc., 3825 Gatlin Place Cir., Orlando, FL 32812, Officer: Ghassan L. Elkabat, President (Qualifying Individual).

Latek Logistics USA, Inc., 175–18 147th Avenue, Jamaica, NY 11434, Officer: Kagan Bas, Secretary (Qualifying Individual).

DLS Cargo, Inc., 10900 NW 21st Street, #230, Doral, FL 33172, Officers: Arlene Cabrera, Vice President (Qualifying Individual), Efrain D. Santos, President.

Broker Landmar Corp, 12938 SW 133 Ct., Miami, FL 33186, Officers: Melinda Memoli, Vice President (Qualifying Individual), Rafael A. Apitz Dorante, President.

Darpex Import/Export Corporation, 8225 NW 80th Street, Miami, FL 33166, Officer: Dario A. Pereyra, President (Qualifying Individual).

Can-Med Lines (USA) Inc., 184 Hebberd Avenue, Paramus, NJ 07652, Officer: Elie M. Ibrahim, President (Qualifying Individual).

GLY Expo Logistics Inc., 200 West Devon Ave., Ste. 5, Bensenville, IL 60106, Officer: George Yao, President (Qualifying Individual).

Global Market Expres Corporation, 5055 NW 74th Ave., Suite 8, Miami, FL 33166, Officers: Yanio Bueno, Traffic Manager (Qualifying Individual), Carmen Z. Blanco, President.

BC Worldwide Logistics Inc., 12006 Scarlet Oak Trail, Conroe, TX 77385, Officers: Phong Vuong, President (Qualifying Individual), Lisa Vuong, Vice President.

Johanson Transportation Service, 5583 E. Olive, Fresno, CA 93727, Officers: Carrie Timmerman, Corp. Branch Manager (Qualifying Individual), Larry Johanson, President.

Champion Cargo Corporation dba Wealthline Freight Fowarders Corp., Easyglide Corp., 3529 NW 82 Ave., Doral, FL 33122, Officers: Robert J. Miessler, President (Qualifying Individual), Sandra C. Miessler, Vice President.

ICL USA, Inc., 230–79 International Airport Center Blvd., Suite 500, Jamaica, NY 11413, Officer: David Eshel, President (Qualifying Individual).

Superior Shipping Inc., 38 East 3rd Street, Mount Vernon, NY 10550, Officers: Rudolph Foster, President (Qualifying Individual), Alexcia Foster, Vice President.

T.V.L. Global Logistics Corp., 1322 N. San Gabriel Blvd., Rosemead, CA 91770. Officers: Kit Fong Lai, Ocean Import Manager, Tony Lu, Vice President (Qualifying Individuals), Chuang-Hsing Chueh, President.

Northwestern Shipping and Transportation Ltd, 606 Oriole Blvd., #100, Duncanville, TX 75116, Officers: Jackson C. Ehioguh, President (Qualifying Individual), Leo Uzoechi, Corp. Secretary.

GM International Freight Forwarders Corp., 8438 NW 66 Street, Miami, FL 33166, Officer: Guillermo Lopez, President (Qualifying Individual).

Saia Moto Freight Line, LLC, 11465 Johns Creek Parkway, Ste. 400,

Duluth, GA 30097, Officer: Tony Albanese, Sen. Vice President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Ocean X-Ing SVC, Inc., 159 Rookery Road, Naples, FL 34114, Officers: Alexander Vasiliyev, President (Qualifying Individual), Olesya Vasiliyeva, Vice President.

Up South, Inc., 129 S.E. 6th Ave., Deefield Beach, FL 33441, Officers: Maria Gomez-Sanchez, President (Qualifying Individual), Nicolas Caballero, Vice President.

International Business Cargo, Corp., 5151 NW 74th Ave., Miami, FL 33166, Officer: Kathy Castillo, President (Qualifying Individual).

Genesis Freight Forwarding Services, Inc., 2601 Greenleaf Avenue, Elk Grove Village, IL 60007. Officer: Karen L. Sedor, V. President Oper. (Qualifying Individual).

Boxer Freight, Inc., 7343 W. Friendly Ave., Ste. C, Greenboro, NC 27410, Officers: Jeffrey Parrett, President (Qualifying Individual), Brandin E. Wrisley, Vice President.

Genesis Forwarding Services NY, Inc., 2601 Greenleaf Avenue, Elk Grove Village, IL 60007, Officer: Karen L. Sedor, V. President Oper. (Qualifying Individual).

Genesis Forwarding Services VA, Inc. dba Genesis Container Lines, 2601 Greenleaf Avenue, Elk Grove Village, IL 60007. Officer: Karen L. Sedor, V. President Oper. (Qualifying Individual).

Genesis Forwarding Services CA, Inc. dba Genesis Container Lines, 2601 Greenleaf Avenue, Elk Grove Village, IL 60007. Officer: Karen L. Sedor, V. President Opera (Qualifying Individual).

Dated: August 22, 2008.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–19867 Filed 8–26–08; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0263]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

Proposed Project: Protection of Human Subjects: Assurance Identification/IRB Certification/ Declaration of Exemption Form—OMB No. 0990–0263—Extension—Office for Human Research Protections.

Abstract: The Federal Policy for the Protection of Human Subjects, known as the Common Rule, requires that before engaging in non-exempt human subjects research that is conducted or supported by a Common Rule department or agency, each institution must: (1) Hold an applicable assurance of compliance [Section 103(a)]; and (2) certify to the awarding department or agency that the application or proposal for research has been reviewed and approved by an IRB designated in the assurance [Sections 103(b) and (f)]. The Office for Human Research Protections is requesting a three-year extension of the Protection of Human Subjects: Assurance Identification/IRB Certification/ Declaration of Exemption Form. That form is designed to promote uniformity among departments and agencies, and to help ensure common means of ascertaining institutional review board certifications and other reporting requirements relating to the protection of human subjects in research. Respondents are institutions engaged in research involving human subjects where the research is supported by HHS. Institutional use of the form is also relied upon by other federal departments and agencies that have codified or follow the Federal Policy for the Protection of Human Subjects (Common Rule). There are an estimated total of 70,000 health or human research studies supported each year, meaning an average of 7 certifications per institution annually, requiring an estimated one-half hour per certification for a total burden of 35,000 hours. Data is collected as needed.

ESTIMATED ANNUALIZED BURDEN IN HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Protection of Human Subjects: Assurance Identification/IRB Certification/ Declaration of Exemption	10,000	7	0.5	35,000

Terry Nicolosi,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E8–19849 Filed 8–26–08; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on September 16, 2008, from 9 a.m. to 5:30 p.m., and on September 17, 2008, from 9 a.m. to 3 p.m.

ADDRESSES: Department of Health and Human Services, Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Andrea Krull, National Vaccine Program Office, Department of Health and Human Services, Room 443–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvpo@hhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. Section 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Director of the National Vaccine Program on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

Topics to be discussed at the meeting include vaccine financing, vaccine stockpile, seasonal influenza and related issues, vaccine safety, vaccine development, and the National Vaccine Plan. Updates will be given by each of the working groups. An agenda will be posted on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac* prior to September 1, 2008.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business September 11, 2008. Pre-registration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvpo@hhs.gov* or call 202–690–5566.

Dated: August 21, 2008.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. E8–19848 Filed 8–26–08; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

President's Committee for People with Intellectual Disabilities; Notice of Meeting

AGENCY: President's Committee for People with Intellectual Disabilities (PCPID).

ACTION: Notice of quarterly meeting.

DATES: September 9, 2008, from 8:30 a.m. to 5 p.m. EST; and September 10, 2008, from 9 a.m. to 5 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held in Room 800 of the Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201. Individuals who would like to participate via conference call may do so by dialing 888–603–6970, passcode: PCPID. Individuals who will need accommodations for a disability in order to attend the meeting (e.g., sign language interpreting services, assistive listening devices, materials in alternative formats such as large print or Braille) should notify MJ Karimi via e-mail at *Madjid.KarimieAsl@ACF.hhs.gov*, or via telephone at 202–619–0634, no later than August 29, 2008. PCPID will attempt to meet requests made after that date, but cannot guarantee availability. All meeting sites are barrier free.

Agenda: PCPID will meet to continue work on the 2009 Annual Report to the President.

Additional Information: For further information, please contact Sally D. Atwater, Executive Director, President's Committee for People with Intellectual Disabilities, the Aerospace Center, Second Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone: 202–619–0634. Fax: 202–205–9591. E-mail: *satwater@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services on a broad range of topics relating to programs, services and supports for persons with intellectual disabilities. PCPID, by Executive Order, is responsible for evaluating the adequacy of current practices in programs, services and supports for persons with intellectual disabilities, and for reviewing legislative proposals that impact the quality of life experienced by citizens with intellectual disabilities and their families.

Dated: August 19, 2008.

Sally D. Atwater,

Executive Director, President's Committee for People with Intellectual Disabilities.

[FR Doc. E8–19898 Filed 8–26–08; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0454]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Contact Substances Notification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information associated

with the Food Contact Substances Notification System.

DATES: Submit written or electronic comments on the collection of information by October 27, 2008.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Contact Substances Notification System—21 CFR 170.101, 170.106, and 171.1 (OMB Control Number 0910–0495)—Extension

Section 409(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(h)) establishes a premarket notification process for food contact substances. Section 409(h)(6) of the act defines a ''food contact substance'' as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'' Section 409(h)(3) of the act requires that the notification process be used for authorizing the marketing of food contact substances except when: (1) FDA determines that the submission and premarket review of a food additive petition (FAP) under section 409(b) of the act is necessary to provide adequate assurance of safety or (2) FDA and the manufacturer or supplier agree that an FAP should be submitted. Section 409(h)(1) of the act requires that a notification include: (1) Information on the identity and the intended use of the food contact substance and (2) the basis for the manufacturer's or supplier's determination that the food contact substance is safe under the intended conditions of use.

Sections 170.101 and 170.106 of FDA's regulations (21 CFR 170.101 and 170.106) specify the information that a notification must contain and require that: (1) A food contact notification (FCN) include FDA Form 3480 entitled ''Notification for New Use of a Food Contact Substance'' and (2) a notification for a food contact substance formulation include FDA Form 3479 entitled ''Notification for a Food Contact Substance Formulation.'' These forms will serve to summarize pertinent information in the notification. FDA believes that these forms will facilitate both preparation and review of notifications because the forms will serve to organize information necessary to support the safety of the use of the food contact substance. The burden of filling out the appropriate form has been included in the burden estimate for the notification.

Section 171.1 of FDA's regulations (21 CFR 171.1) specifies the information that a petitioner must submit in order to: (1) Establish that the proposed use of an indirect food additive is safe and (2) secure the publication of an indirect food additive regulation in parts 175 through 178 (21 CFR parts 175 through 178). Parts 175 through 178 describe the conditions under which the additive may be safely used.

In addition, FDA's guidance document entitled ''Use of Recycled Plastics in Food Packaging: Chemistry Considerations'' provides assistance to manufacturers of food packaging in evaluating processes for producing packaging from post-consumer recycled plastic. The recommendations in the guidance address the process by which manufacturers certify to FDA that their plastic products are safe for food contact.

Description of Respondents: Manufacturers of food contact substances.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
170.106[2] (Category A)	FDA 3479	5	1	5	2	10
170.101[3,7] (Category B)	FDA 3480	5	1	5	25	125
170.101[4,7] (Category C)	FDA 3480	5	2	10	120	1,200
170.101[5,7] (Category D)	FDA 3480	33	2	66	150	9,900
170.101[6,7] (Category E)	FDA 3480	30	1	30	150	4,500
171.1 Indirect Food Additive Petitions		2	2	2	10,995	21,990

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	Form No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Guidance						
Use of Recycled Plastics in Food Packaging: Chemistry Considerations		10	1	10	25	250
Total						37,975

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Notifications for food contact substance formulations and food contact articles. These notifications require the submission of FDA Form 3479 (''Notification for a Food Contact Substance Formulation'') only.
[3] Duplicate notifications for uses of food contact substances.
[4] Notifications for uses that are the subject of exemptions under 21 CFR 170.39 and very simple food additive petitions.
[5] Notifications for uses that are the subject of moderately complex food additive petitions.
[6] Notifications for uses that are the subject of very complex food additive petitions.
[7] These notifications require the submission of FDA Form 3480.

These estimates are based on FDA's experience with the food contact substances notification system. Based on input from industry sources, FDA estimates that approximately five respondents will submit one notification annually for food contact substance formulations (Form FDA 3479), for a total of five responses. FDA estimates the reporting burden to be 2.0 hours per response, for a total burden of 10 hours. FDA also has included five expected duplicate submissions in the second row of table 1 of this document. FDA expects that the burden for preparing these notifications primarily will consist of the manufacturer or supplier filling out FDA Form 3480, verifying that a previous notification is effective and preparing necessary documentation. Thus, FDA estimates that five respondents will submit one such submission annually, for a total of five responses. FDA estimates the reporting burden to be 25.0 hours per response, for a total burden of 125 hours.

Based on the submissions received, FDA identified three other tiers of FCNs that represent escalating levels of burden required to collect information (denoted as Categories C, D, and E in the third, fourth, and fifth rows of table 1 of this document). FDA estimated the median number of hours necessary for collecting information for each type of notification within each of the three tiers based on input from industry sources. FDA estimates that five respondents will submit two Category C submissions annually, for a total of ten responses. FDA estimates the reporting burden to be 120 hours per response, for a total burden of 1,200 hours. FDA estimates that 33 respondents will submit 2 Category D submissions annually, for a total of 66 responses. FDA estimates the reporting burden to be 150 hours per response, for a total burden of 9,900 hours. FDA estimates that 30 respondents will submit 1 Category E submission annually, for a total of 30 responses. FDA estimates the reporting burden to be 150 hours per response, for a total burden of 4,500 hours.

FDA estimates that two respondents will submit one indirect food additive petition under § 171.1, for a total of two responses. FDA estimates the reporting burden to be 10,995 hours per response, for a total burden of 21,990 hours.

FDA estimates that 10 respondents will utilize the recommendations in the guidance document entitled ''Use of Recycled Plastics in Food Packaging: Chemistry Considerations,'' to develop the additional information for one such submission annually, for a total of 10 responses. FDA estimates the reporting burden to be 25 hours per response, for a total burden of 250 hours.

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 only through FDMS at *http://www.regulations.gov*.

Dated: August 20, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–19843 Filed 8–26–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Subcommittee I—Career Development, September 30, 2008, 8 a.m. to October 1, 2008, 5 p.m., Crowne Plaza National Airport, 1480 Crystal Drive, Arlington, VA, 22202 which was published in the **Federal Register** on August 8, 2008, 73 FR 46308.

This meeting is amended to change the meeting date to September 30, 2008. The meeting is closed to the public.

Dated: August 20, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–19805 Filed 8–26–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel.

A Cooperative Research Partnerships for Biodefense, and Emerging Infectious Diseases SEP 1.

Date: September 15, 2008.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, 3122, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, PhD, Scientific Review Officer, NIAID, DEA, Scientific Review Program, Room 3122, 6700-B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, (301) 451–3684, *bgustafson@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel, A Cooperative Research Partnerships for Biodefense, and Emerging Infectious Diseases SEP 2.

Date: September 18, 2008.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, 3122, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, PhD, Scientific Review Officer, NIAID, DEA, Scientific Review Program, Room 3122, 6700-B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, (301) 451–3684, *bgustafson@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel, Regional Centers of Excellence for Biodefense, and Emerging Infectious Diseases-September.

Date: September 22–24, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel Washington DC/ Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Darren D Sledjeski, PhD, Scientific Review Officer, National Institutes of Health/NIAID, Scientific Review Program, 6700-B Rockledge Drive, MSC–7616 Room 3131, Bethesda, MD 20892–7616, (301) 451–2638, *sledjeskid@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel, Regional Centers of Excellence for Biodefense, and Emerging Infectious Diseases.

Date: October 6–8, 2008.

Time: 7:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd., Bethesda, MD 20852.

Contact Person: Darren D Sledjeski, PhD, Scientific Review Officer, National Institutes of Health/NIAID, Scientific Review Program, 6700-B Rockledge Drive, MSC–7616 Room 3131, Bethesda, MD 20892–7616, (301) 451–2638, *sledjeskid@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 20, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–19798 Filed 8–26–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Commiftee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of R03's.

Date: October 22, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Victor Henriquez, PhD, Scientific Review Officer, DENSRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–594–3169.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 20, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Commiftee Policy.

[FR Doc. E8–19799 Filed 8–26–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a correction in Interagency Autism Coordinating Committee (IACC), Services Subcommittee Conference Call and Webinar, September 15, 2008, 9:30 a.m. to 11:30 a.m., which was published in the **Federal Register** on August 15, 2008, 73 FR 47958.

The correct meeting access code is 3857872. Everything else remains the same.

Dated: August 20, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–19804 Filed 8–26–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Solicitation of Proposal Information for Award of Public Contracts

AGENCY: Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

ACTION: 30-Day Notice and request for comments: Extension without change of a currently approved collection, 1600–0005.

SUMMARY: The Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (as amended), 44 U.S.C. Chapter 35). The Office of the Chief Procurement Officer is soliciting comments related to its request for extension of an existing information collection authority for the solicitation of proposal information for award of public contracts under Homeland Security Acquisition Regulation (HSAR). DHS previously published this information collection request (ICR) in the **Federal Register** on June 6, 2008 at 73 FR 32343, for a 60-day public comment period. No comments were received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until September 26,

2008. This process is conducted in accordance with 5 CFR 1320.1

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 OMB Desk Officer, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974. The Office of Management and Budget is particularly interested in comments regarding:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: If additional information is required contact: Acquisition Policy and Legislation Office, Attn: Patricia Corrigan for the Department of Homeland Security, Office of the Chief Procurement Officer, Room 3114, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), Office of the Chief Procurement Officer request renewal of an existing OMB Control Number for information requested from prospective contractors in response to agency-issued solicitations. The information requested is specific to each solicitation, and is required in order for DHS to properly evaluate offeror/bidder qualifications and capabilities in order to make informed decisions in awarding contracts. Information requested typically includes that related to offerors' or bidders' management approach, technical and pricing information, delivery and other pertinent information. This notice provides a request for renewal of OMB Control Number 1600–0005 previously granted in August 2005.

Analysis

Agency: Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office.

Title: Solicitation of Proposal Information for Award of Public Contracts.

OMB Number: 1600–0005.

Frequency: Once.

Affected Public: Businesses and individuals.

Estimated Number of Respondents: 10,850.

Estimated Time Per Respondent: 14 hours.

Total Burden Hours: 151,900 annual burden hours.

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintaining): $0.00.

Richard Mangogna,

Chief Information Officer.

[FR Doc. E8–19891 Filed 8–26–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Date for the Port of Guam

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the date for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Port of Guam.

DATES: TWIC enrollment begins in Guam on September 4, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html;* or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov.*

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub. L. 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Port of Guam on September 4, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Guam including those in the Port of Guam must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic.*

Issued in Arlington, Virginia, on August 20, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–19806 Filed 8–26–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form G–646, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form G–646, Sworn Statement of Refugee Applying for Admission to the United States; OMB Control No. 1615–0097.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The 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 27, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC, 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0097 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Sworn Statement of Refugee Applying for Admission into the United States.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form G–646, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The data collected on this form is used by the DHS to determine eligibility for the admission of applicants to the United States as refugees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 75,000 responses at 20 minutes (.333 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 24,975 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, Telephone number 202–272–8377.

Dated: August 22, 2008.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–19854 Filed 8–26–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–131, Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–131, Application for Travel Document; OMB Control No: 1615–0013.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The 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 27, 2008.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–131. Should USCIS decide to revise the Form I–131 it will advise the public when it publishes the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30-days to comment on any revisions to the Form I–131.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0013 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–131. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. Certain aliens, namely permanent or conditional residents, refugees or asylees and aliens abroad use this information collection to apply for a travel document to lawfully enter or reenter the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 164,103 responses at 1 hour and 55 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 311,796 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/fdmspublic/component/main.*

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

August 22, 2008.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–19856 Filed 8–26–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2008–N0212; 71490–1351–0000–L5]

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application from the Alaska Department of Transportation and Public Facilities and the Aleutians East Borough for authorization to take small numbers of marine mammals by harassment incidental to the Akutan Airport, Alaska—Airport Construction and Hovercraft Operation in Akutan and Unalaska, Alaska. In accordance with provisions of the Marine Mammal Protection Act of 1972 (MMPA), as amended, we request comments on our proposed authorization for the applicant to incidentally take, by harassment, small numbers of northern sea otters (*Enhydra lutris kenyoni*) for a period of 1 year beginning in the first quarter of 2009. We anticipate no take by injury or death and include none in this proposed authorization, which would be for take by harassment only.

DATES: Comments and information must be received by September 26, 2008.

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

1. By mail to: Douglas Burn, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503.
2. By fax to: 907–786–3816.
3. By telephone at Fish and Wildlife Service, Office of Marine Mammals Management, 907–786–3807 or 1–800–362–5148.
4. By electronic mail (e-mail) to: *R7_MMM_Comment@FWS.gov*. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your message. If you do not receive a confirmation from the system that we have received your message, contact us directly at the telephone numbers above.
5. By hand-delivery to the above address.

FOR FURTHER INFORMATION CONTACT: To request copies of the application, the list of references used in this notice, and other supporting materials, contact Douglas Burn at the address or telephone numbers in **ADDRESSES**, or by e-mail at *Douglas_Burn@FWS.gov*.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, as amended (16 U.S.C. 1371(a)(5)(A) and (D)), authorize the Secretary of the Interior to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region provided that we make certain findings and either issue regulations or, if the taking is limited to harassment, provide a notice of a proposed authorization to the public for review and comment.

We may grant authorization to incidentally take marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. As part of the authorization process, we prescribe permissible methods of taking and other means of affecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal. Harassment, as defined by the MMPA, means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [the MMPA calls this Level A harassment], or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [the MMPA calls this Level B harassment].''

The terms ''small numbers,'' ''negligible impact,'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Small numbers'' is defined as ''a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.'' ''Negligible impact'' is defined as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' ''Unmitigable adverse impact'' is defined as ''an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) Causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals where the take will be limited to harassment. Section 101(a)(5)(D)(iii) establishes a 45-day time limit for Service review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, we must either issue or deny issuance of the authorization. We refer to these authorizations as Incidental Harassment Authorizations (IHAs).

Summary of Request

On July 9, 2008, we received a joint application from the Alaska Department of Transportation and Public Facilities and the Aleutians East Borough (Applicants) for the taking by harassment of northern sea otters (*Enhydra lutris kenyoni*) incidental to

the Akutan Airport, Alaska—Airport Construction and Hovercraft Operation (Project). Under the proposed action, the Applicants would construct a new airport to serve the community of Akutan on the southwestern portion of Akun Island, approximately 7 miles east of the community. Transport to and from Unalaska would be accomplished by hovercraft operations. Access to the Akun airport location would be provided by hovercraft from the City of Akutan to Surf Beach, which offers a protected landing area. Marine service by hovercraft between the community of Akutan and Surf Bay on Akun Island would satisfy passenger comfort and weather operability goals. When not in use, the hovercraft would be stored in a building at the head of Akutan Harbor. Staff would access the hovercraft storage area at the head of the harbor by traveling in a skiff. A 3,000-foot-long road would connect the hovercraft landing pad on Surf Beach to the runway located on the bench above the beach. A diesel bus would be used to transport passengers between the hovercraft and aircraft. The bus would be fueled onsite and stored at the airport when not in use.

A detailed description of the proposed action is contained in a Final Environmental Assessment (FEA) and Finding of No Significant Impact/Record of Decision (FONSI/ROD) prepared by the Applicants for the Federal Aviation Administration (FAA) and issued in December 2007 (73 FR 4040; January 23, 2008). A Biological Opinion for the proposed Akutan Airport Project was issued by the Service in May 2007.

Description of the Activity

Akutan Airport, Alaska—Airport Construction and Hovercraft Operation

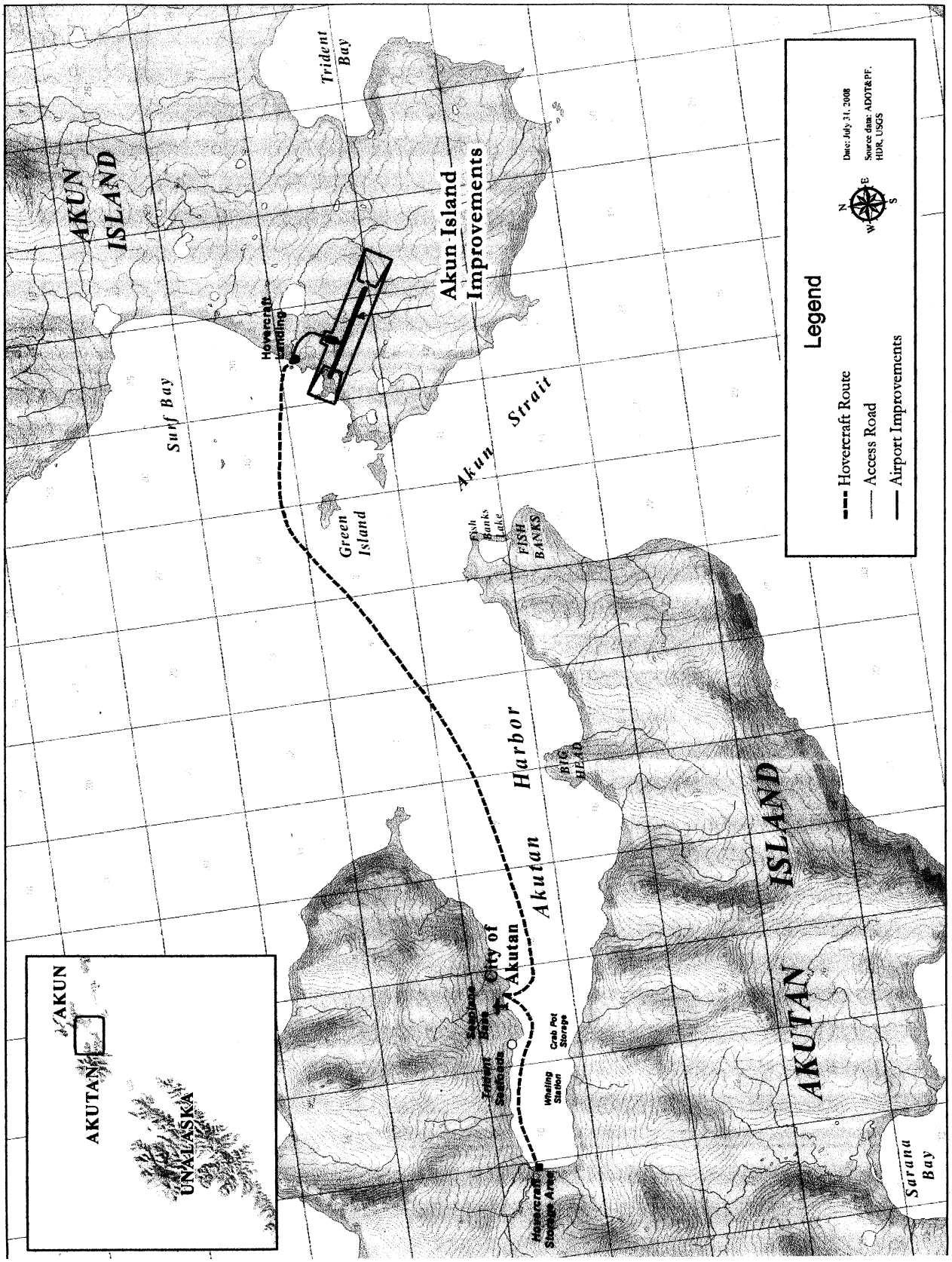
a. Timing of Construction and Hovercraft Operation

Construction of the airport and related transportation of construction materials will commence during the second quarter (between April and June) of 2009 and continue until the fourth quarter (between October and December) of 2010. Hovercraft testing may commence as early as the first quarter (between January and March) of 2009, with sustained operations commencing in the fourth quarter of 2010, after completion of construction.

b. Geographic Location of Action

The community of Akutan is located on a small bay on Akutan Island in the eastern region of the Aleutian Islands (Figure 1). The city of Akutan has a population of about 741. The community is located 35 miles east of Unalaska and 766 miles southwest of Anchorage. The proposed location for the new airport to serve the community of Akutan is on the southwestern portion of Akun Island, approximately 7 miles east of the community. The hovercraft route will run between the community of Akutan, across Akun Strait, to a landing site on the shore of Surf Bay on Akun Island.

BILLING CODE 4310–55–P


AKUN ISLAND
Trident Bay
Surf Bay
Hovercraft Landing
Akun Island Improvements
Akun Strait
Green Island
Fish Banks Lake
FISH BANKS
Harbor
BIG HEAD
Akutan
City of Akutan
Seafood Plant
Trident Seafoods
Crab Pot Storage
Whaling Station
Hovercraft Storage Area
AKUTAN ISLAND
Sarana Bay
AKUN
AKUTAN
UNALASKA
Legend
Hovercraft Route
Access Road
Airport Improvements
Date: July 31, 2008
Source data: ADOT&PF, HDR, USGS
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Description of Habitat and Marine Mammals Affected By the Activity

Three monthly surveys for sea otters were conducted in winter (January–March) 2006 as part of the field investigations for the Akun Alternative by HDR Alaska, Inc. in Akutan Harbor, Akun Strait, and Surf Bay along the proposed Akun airport hovercraft route. Sea otter numbers were highest in January (22), with declines in February (17), and by March, only 7 otters were observed. Preferred habitat appeared to include protected areas in Akutan Harbor near the community of Akutan and along nearshore habitats at Akun and Green Island. Most of the otters sighted were individuals, and only one female with a pup was observed during the winter surveys. A detailed description of the habitat, status, distribution, and seasonal distribution of northern sea otters is contained in the FEA, the Biological Assessment for the proposed IHA, and the Biological Opinion (FWS 2007) for the proposed Akutan Airport Project.

Status and Distribution of Affected Species

In North America, the northern sea otter is found along the coasts of Washington, British Columbia, and Alaska. Present distribution extends from the north coast of Washington State into the north Vancouver Island area of British Columbia. In Alaska, northern sea otters occur in the coastal waters from southeast Alaska to the Aleutian Island chain (Riedman and Estes 1990). Currently there are three population stocks of northern sea otters in Alaska. Since the mid-1980s, the southwest population stock has undergone an overall 55–67 percent decline (Doroff *et al.* 2003; Burn *et al.* 2003; Burn and Doroff 2005; Estes *et al.* 2005; USFWS 2005). The animals found in the Aleutian Islands have experienced the greatest declines. More specifically, the population in the Rat Island group, located in the central Aleutian Island chain, declined by about 94 percent; aerial survey counts of the Rat Island group decreased from 270 in 1959 to 11 in 2000 (Kenyon 1969; Doroff *et al.* 2003). The reasons for this decline are not well understood and are under investigation. Consequently, the southwestern Alaska distinct population segment (DPS) of northern sea otters was listed as threatened under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), in August 2005 (70 FR 46366; August 9, 2005).

Potential Impacts of the Akutan Airport, Alaska—Airport Construction and Hovercraft Operation on Sea Otters

The proposed activities have the potential to disturb resting and foraging activities of sea otters, particularly in waters that are protected in the near shore habitat, which is used for resting, pup rearing, and foraging. The incremental effects of the hovercraft operation will be minimal in Akutan Harbor, which presently has considerable amounts of vessel traffic. In contrast, Surf Bay has relatively little vessel traffic. This fact may explain why surveys indicate that the majority of sea otters observed along the hovercraft route were in the proximity of Surf Bay. As a result, we would expect most of the impacts from incidental harassment to occur in the Surf Bay area.

The response of marine mammals to airport construction and hovercraft operations varies among species. Sea otters have not been reported as particularly sensitive to sound and/or movement disturbance, especially in comparison to other marine mammals such as pinnipeds (U.S. Air Force and USFWS 1988; Efroymson and Suter 2001). However, observations of sea otters indicate their responses to disturbance are highly variable (A. Doroff, USFWS, pers. comm.). If any sea otters are present during project operations, some of them may be temporarily disturbed by noise or hovercraft operating in the area. This could result in an otter entering the water from land and/or diving, which they do as part of the normal behavior pattern. The short-term displacement of any hauled-out animals that is likely to occur as a result of project noise and personnel is not anticipated to affect the overall fitness of any individual animal.

Potential Effects on Habitat

Hovercraft landings will be constructed primarily in areas away from intertidal and subtidal areas to avoid adverse effects on northern sea otters and their habitat. Surf Beach landing site construction would impact about 0.4 intertidal acres and about 0.01 subtidal acres. Construction at the head of Akutan Harbor would impact about 0.1 intertidal acres and about 0.6 subtidal acres.

Potential Impacts on Subsistence Needs

In the Aleutian Islands, rural residents use a variety of plant and animal resources for subsistence purposes. The MMPA provides for a subsistence take of marine mammals by Alaska Natives. Although northern sea otters are harvested for subsistence purposes in the Aleutians, information from the Service's marine mammal Marking, Tagging, and Reporting Program (MTRP) indicates that residents of Akutan harvest less than one sea otter per year, on average. We do not anticipate that the project described in this application will have any adverse effect on subsistence uses or needs.

Mitigation Measures

As described in correspondence between FAA and the Service (FAA 2007; USFWS 2007), the Applicants will implement the following measures to avoid, minimize, and mitigate the effects of the proposed action on northern sea otters:

a. A Hovercraft Will Be Used to Transport Passengers To and From the Airport

As described in the Biological Assessment, hovercrafts produce less wake and less underwater noise than other marine vessels. Peer-reviewed scientific literature concludes that a hovercraft is considerably quieter underwater than a similar-sized conventional vessel, and that hovercraft may be an attractive alternative to conventional vessels if underwater sounds cause concerns. In-air sound may constitute a source of disturbance for listed sea otters; however, the use of ramp-up and power-down procedures and the avoidance of areas of sea otter concentrations will minimize any potential disturbance.

b. The Hovercraft Landings Will Be Located To Minimize Impacts to Intertidal and Subtidal Areas

Hovercraft landings will be constructed primarily in areas away from intertidal and subtidal areas to avoid adverse effects on northern sea otters and their habitat. Surf Bay landing site construction would impact about 0.4 intertidal acres and about 0.01 subtidal acres. Construction at the head of Akutan Harbor would impact about 0.1 intertidal acres and about 0.6 subtidal acres. Such construction is likely to be less intrusive with respect to sea otter habitat than construction of fixed, in-water docks or other related facilities.

c. No Dredging or Pile Driving Is Anticipated During the Construction of the Hovercraft Landings

Both dredging and pile driving possess the potential to harass northern sea otters due to habitat or noise disturbance. We anticipate that the use of a hovercraft will avoid the need to construct in-water facilities such as

moorings, piers, or docks that could require dredging or pile driving.

d. The Hovercraft Will Be Operated Pursuant to a Route Operational Manual, Which Will Dictate the Avoidance of Sensitive Areas and Species

As discussed in the Biological Assessment, the Applicants will develop a Route Operational Manual in consultation with the Service. The purpose of the Route Operational Manual is to develop hovercraft routes and operational procedures that avoid and minimize the likelihood of northern sea otter disturbance. As described below, the Applicants propose to expedite development of the Route Operational Manual to ensure the proposed action avoids adverse effects to listed northern sea otters and other protected marine mammals. The Route Operational Manual must have our approval prior to initiation of hovercraft operation, and operator compliance with the Route Operational Manual will be required as a condition of airport design approval and Clean Water Act 404 permit issuance.

e. Expedite Completion of the Route Operation Manual

The Applicants propose to expedite completion of a Route Operation Manual, which will be developed in consultation with the Service, the National Marine Fisheries Service (NMFS), the U.S. Coast Guard, and FAA. The Route Operation Manual will outline specific, detailed procedures to avoid and minimize impacts to sea otters. The Route Operation Manual will not only identify hovercraft routes, but it will also provide a clearly written protocol that all hovercraft operators will be required to follow during hovercraft operations. The Applicants will commence developing a draft Route Operation Manual within 60 days after issuance of the IHA. The Applicants will submit a final Route Operation Manual to the agencies for review and approval within 60 days after receipt of all agency comments on the draft.

During Route Operation Manual development, the applicant proposes to consult with the hovercraft manufacturer to insure that hovercraft operations occur in the least intrusive manner possible. Through these discussions, the parties and the manufacturer may identify additional, cost-effective measures to further reduce vessel noise.

f. All Fueling and Hovercraft Maintenance Activities Will Be Conducted to the Maximum Extent Feasible at Least 100 Feet Away From Akutan Harbor and Surf Bay, and Fuel Storage Will Be at Least 100 Feet Away From Akutan Harbor and Surf Bay

As discussed in the Biological Assessment, northern sea otters are susceptible to oiling due to fuel spills because they depend on their insulation of dense fur to keep warm. They likewise may ingest oil during grooming and feeding. To address this issue, the Applicants propose to conduct all fueling activities at the maximum distance feasible (i.e., at least 100 feet away from Akutan Harbor and Surf Bay). Fuel storage will also occur at least 100 feet away from these locations. The Applicants will comply with all applicable Federal and State fuel handling and storage requirements, further reducing the risk that any spill reaches sensitive northern sea otter habitat. To address the risk of spills or contamination associated with hovercraft maintenance, the Applicants propose to conduct all maintenance activities either on hovercraft landing areas, above inter-tidal or sub-tidal areas, or in the hovercraft storage building.

g. Research Activities To Assess the Potential Effects of Hovercraft Operations on Northern Sea Otters

Given the uncertainty associated with the potential effects of hovercraft operations on northern sea otters, the applicant will undertake research efforts to evaluate in detail the effects of hovercraft noise on northern sea otter behavior and physiology. Information collected through research on hovercraft operations at Cold Bay may augment, and potentially obviate the need for, certain research efforts at Akutan. Appendix A to the September 27, 2007, letter from FAA to the Service (FAA 2007) discusses in detail the proposed study design and methods for this research effort.

To evaluate the potential impacts of hovercraft operations on northern sea otters in the Akutan Bay region, the applicant will conduct a study of sea otter movements and diving behaviors in the project area. The study proposes using time-depth recorders and Very High Frequency (VHF) radio-transmitters to evaluate movement and dive patterns before and after the hovercraft becomes operational. The Applicants propose to develop and implement a final study plan in consultation with the Service. The Applicants will fund such project and will strive to involve the Service, local community members, and native organizations in these research activities.

h. Establishment of Northern Sea Otter Avoidance Areas

The Applicants will identify northern sea otter avoidance areas in consultation with the Service. These avoidance areas will serve to help delineate areas of likely northern sea otter occurrence to minimize disturbance and or displacement of animals. During the first year of operation, the avoidance areas will be periodically surveyed and monitored, in association with hovercraft operation. A detailed description of monitoring requirements is provided in the Monitoring and Reporting sections below.

i. Hovercraft Speed and Course Alteration

If a northern sea otter is observed within a set distance (e.g., a minimum of 1,200 feet) of the hovercraft (distances to be determined based on consultation with the Service) and based on its position and the relative course of travel is likely to approach the hovercraft, the hovercraft's speed or course will, when practicable and safe, be changed to avoid impacts to the species. Northern sea otter activities and movements relative to the hovercraft will be closely monitored to ensure that an animal does not (1) travel within a set distance (e.g., a minimum of 600 feet) of a departing hovercraft or (2) travel within a set distance (e.g., a minimum of 300 feet) of an approaching hovercraft (the ''potential disturbance area'' or ''PDA''). If either of these events occur, further mitigation measures must be taken (e.g., further course alterations or power down).

j. Power-Down Procedures

A power down involves decreasing the speed of the hovercraft to avoid interactions with, and potential disturbance of, northern sea otters. If a northern sea otter is detected (1) within a set distance (e.g., a minimum of 600 feet) of a departing hovercraft or (2) within a set distance (e.g., a minimum of 300 feet) of an approaching hovercraft, and the vessel's course or speed cannot be changed to avoid having the animal enter the PDA, then the hovercraft will, consistent with applicable design and operational requirements, decrease its speed to the slowest practicable speed before the animal enters the PDA. Power-down procedures will be developed in consultation with the hovercraft manufacturer and the Service to ensure

procedures are safe and within the operating parameters of the hovercraft.

k. Ramp-Up Procedures

The applicant will implement ''ramp-up''' procedures when starting up the hovercraft, to provide additional protection to northern sea otters located near hovercraft landing areas. These procedures will allow individual animals to vacate the area to reduce the risk of injury, and to further reduce the risk of potentially startling sea otters with a sudden intensive sound. Ramp-up would occur such that the sound associated with hovercraft operations would increase at a gradual rate, consistent with applicable design and operational requirements, and sufficient to allow the hovercraft to leave the ramp using the slope of the ramp in conjunction with minimum power. The Applicants propose to confer with the hovercraft operator to develop ramp-up procedures consistent with this guideline.

l. Night-Time Operations

The Applicants will work with the Service to develop night-time operating procedures to avoid and minimize impacts to northern sea otters and other species.

Findings

We propose the following findings regarding this action:

Small Numbers Determination and Estimated Take by Incidental Harassment

For small take analysis, the statute and legislative history do not require a specific numbers analysis, leaving the determination of ''small'' to the agency's discretion. Factors considered in our small numbers determination include:

(1) *The number of northern sea otters inhabiting the waters in the impact area is expected to be small relative to the size of the southwest Alaska population stock.* Skiff-based surveys conducted in 2006 recorded up to 22 otters in proximity to the proposed hovercraft route. The current estimate for the size of the southwest Alaska population stock is approximately 48,000 individuals (USFWS 2008). The number of northern sea otters that could potentially be taken by harassment in association with the proposed activity is less 0.05 percent of the estimated population size.

(2) *The area where the activity will occur is small relative to the range of the southwest Alaska population stock of sea otters.* Surf Bay on Akun Island is approximately 7 km in length. The southwest Alaska population stock ranges from Attu Island in the west to lower Cook Inlet in the east, a distance of more than 2,700 km. Therefore, Surf Bay comprises less than 0.3 percent of the total range of the southwest Alaska population stock of the northern sea otter.

(3) *The area where the activity will occur will impact a relatively small fraction of the habitat of the southwest Alaska population stock of sea otters.* As sea otters typically inhabit nearshore marine areas, shoreline length is a readily-available metric that can be used to quantify sea otter habitat. The total length of shoreline within the range of the southwest Alaska stock of northern sea otters is approximately 19,531 km. By comparison, the shoreline of Surf Bay is approximately 7 km in length, which is less than 0.04 percent of the total available habitat.

(4) *Monitoring requirements and mitigation measures are expected to significantly limit the number of incidental takes.* Monitoring information collected during hovercraft testing and operations will provide the Service and the Applicants with more current information about sea otter distribution and abundance at Surf Bay on Akun Island. In the event that larger numbers of sea otters than have previously been observed are encountered at consistent locations, the Route Operations Manual will be revised to minimize incidents of harassment.

Negligible Impact

The Service finds that any incidental take by harassment that is reasonably likely to result from the proposed project will not adversely affect the southwest Alaska stock of northern sea otters through effects on rates of recruitment or survival, and will, therefore, have no more than a negligible impact on the stock. In making this finding, we considered the best available scientific information, including: (1) The biological and behavioral characteristics of the species; (2) the most recent information on distribution and abundance of sea otters within the area of the proposed activity; (3) the potential sources of disturbance during the proposed activity; and (4) the potential response of northern sea otters to disturbance.

The mitigation measures outlined above are intended to minimize the number of sea otters that may be disturbed by the proposed activity. Any impacts to individuals are expected to be limited to Level B harassment of short-term duration. Response of sea otters to disturbance will most likely be common behaviors such as diving and/or swimming away from the source of the disturbance. No take by injury or death is anticipated. The Service finds that the anticipated harassment caused by the proposed activities is not expected to adversely affect the species or stock through effects on annual rate of recruitment or survival.

Our finding of negligible impact applies to incidental take associated with the proposed activity as mitigated through this authorization process. This authorization establishes monitoring and reporting requirements to evaluate the potential impacts of the authorized activities, as well as mitigation measures designed to minimize interactions with, and impacts to, northern sea otters.

Impact on Subsistence

We find that the anticipated harassment caused by the project will not have an unmitigable adverse impact on the availability of northern sea otters for taking for subsistence uses during the period of the activity. In making this finding, we considered the timing and location of the project and subsistence harvest patterns, as reported through the MTRP, in the proposed project area.

Marine Mammal Monitoring

The applicant will conduct marine mammal monitoring during the Akutan Airport, Alaska—Airport Construction and Hovercraft Operation, in order to implement the mitigation measures that require real-time monitoring, and to satisfy monitoring called for under the MMPA. Project personnel will record information regarding location and behavior of all sea otters observed during operations. When conditions permit, information regarding age (pup, adult) and any tagged animals will also be recorded. The Applicants also propose to form an Akutan marine mammal workgroup in coordination with the City of Akutan, the Aleutians East Borough, the Service, and NMFS. This workgroup will consist of representatives from affected native organizations, the City of Akutan, FAA, and the Services. The workgroup will provide a forum to discuss hovercraft monitoring results and other issues pertaining to airport operations and northern sea otter conservation.

The workgroup shall discuss, among other things: (1) Any proposed changes in hovercraft operations to provide both FAA and the Service with community perspectives on airport operations, (2) monitoring frequency and duration based upon monitoring results and related factors, and (3) completion of peer reviews for reports that evaluate and interpret monitoring data. The

Applicant will coordinate the formation of the workgroup, and will be responsible for organizing meeting agendas, establishing meeting locations, and facilitating community involvement at such meetings. Workgroup meetings shall commence within 60 days from FAA's approval of airport construction, and shall occur on a quarterly basis for a minimum of 5 years after hovercraft operations commence.

Monitoring and Reporting

The Applicants will implement the following monitoring and reporting program to increase knowledge regarding the species, and to assess the level of taking caused by the proposed action:

a. Vessel-Based Monitoring

Vessel-based monitoring will be conducted by a qualified Service-approved observer. Methods for observing, estimating distances to northern sea otters and other marine species, and recording data quickly and accurately will be tested prior to hovercraft operations at Akutan. Reticle binoculars (e.g., 7 x 50 Bushnell or equivalent) and laser range finders (Leica LRF 1200 laser range finder or equivalent) are considered standard equipment for observers on board ships with marine mammal observers. Final observation methods will be approved by the Service. During the first year of hovercraft operation, monitoring will occur each time the hovercraft operates during daylight hours, including during initial sea trials in the action area. Monitoring methods during periods of darkness will be developed with the Service prior to nighttime operations. Thereafter, monitoring will occur as directed by the Service.

Vessel-based observers will begin monitoring at least 30 minutes prior to the planned start of the hovercraft and during all periods of hovercraft operations to ensure the effectiveness of ramp-up as a mitigation measure. Observers will also monitor the safety areas prior to hovercraft operation. If northern sea otters are observed within the safety areas, hovercraft operations will be altered in accordance with procedures contained in the Route Operation Manual to avoid or minimize noise-related disturbance to animals occurring in the area.

Data for each northern sea otter, other marine mammals, and Steller's eiders observed in the action area during the period of hovercraft operations will be collected and provided to the Service in GIS format for mapping and analysis. Numbers of northern sea otters observed, frequency of observation, sea state, any behavioral changes due to hovercraft operations, and other pertinent variables will be recorded and entered into a custom database using a notebook computer. The accuracy of the data entry will be verified by computerized validity data checks as the data are entered, and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, or other programs for additional processing and archiving.

Results from the vessel-based observations will provide: (1) A basis for real-time mitigation; (2) information needed to estimate the number of northern sea otters that are determined to have been harassed; (3) data on the occurrence, distribution, and activities of marine mammals in the area where hovercraft operations are conducted; and (4) data on the behavior and movement patterns of northern sea otters seen at times with and without hovercraft activity.

b. Aerial Monitoring

In addition to vessel monitoring, the applicant will conduct periodic aerial monitoring in and near the project area, including Surf Bay or other (undisturbed) areas that provide northern sea otter habitat. The aerial surveys will: (1) Collect and report data on the distribution, numbers, and general movements of northern sea otters in the project vicinity; (2) help inform operating vessels as to the presence of northern sea otters in the general area of operation; and (3) facilitate the estimation of impacts of hovercraft operations on northern sea otters. The aerial survey will be conducted after a research permit is obtained from the Service.

Aerial monitoring will be conducted on a monthly basis when feasible, in consultation with the Service, during the first year of hovercraft operation. One Service-approved observer will be on the aircraft observing and recording the location of northern sea otters. Space will be made available on the survey aircraft for Service staff to participate in surveys when possible.

Aerial survey observers will record the number, group size, location (latitude/longitude), time, date, direction, and angle from aircraft for each sea otter observed. Data will also be collected on tide, other pertinent environmental variables, and operational activities of the hovercraft (e.g., in operation, last time the hovercraft crossed the bay, present location of the hovercraft). Observation conditions will be recorded at the start and finish of each survey or whenever conditions change (e.g., ceiling height, sea state, glare, other weather factors).

c. Reporting

Reports on vessel-based and aerial monitoring will be sent to the Service by fax or electronic mail on a regular basis. Reports will describe hovercraft operations and northern sea otter monitoring activities during the reporting period. Frequency and specific content of reports will be determined based on consultation with the Service.

Upon completion of the first stage of operations, monitoring results will be compiled and provided to the Service's Marine Mammals Management Office (MMM) for review. Additional monitoring information will be collected, compiled, and provided to MMM throughout the life of the project.

Endangered Species Act

The proposed activity will occur within the range of the southwest Alaska DPS of the northern sea otter, which is presently listed as threatened under the ESA, as amended. The FAA and the Service's Anchorage Fish and Wildlife Field Office in Anchorage, Alaska, have consulted under Section 7 of the ESA, and concluded that the proposed activity will not jeopardize the southwest Alaska DPS of the northern sea otter.

National Environmental Policy Act (NEPA)

The applicant provided an FEA on the project. The Service finds that this FEA meets NEPA standards for analyzing the effects of the issuance of this IHA. To obtain a copy of the FEA, contact the individual identified in the **ADDRESSES** section.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Secretarial Order 3225, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a Government-to-Government basis. On July 24, 2008, we contacted the Native Village of Akutan to offer Government-to-Government consultation on this project. The Tribal Administrator declined the offer, stating that their

Tribe fully supports the development of an airport on Akun Island.

Proposed Authorization

The Service proposes to issue an IHA for small numbers of northern sea otters harassed incidentally by the Applicants while conducting Akutan Airport, Alaska—Airport Construction and Hovercraft Operation. The final IHA would specify the starting date (some time during the first quarter of 2009) and ending date (one year later) for the authorization. Authorization for incidental take beyond the period specified in the final IHA will require a request for renewal.

The final IHA would also incorporate the mitigation, monitoring, and reporting requirements discussed in this proposal. The Applicants will be responsible for following those requirements. These authorizations do not allow the intentional taking of northern sea otters.

If the level of activity exceeds that described by the Applicants, or the level or nature of take exceeds those projected here, the Service would reevaluate its findings. The Secretary may modify, suspend, or revoke an authorization if the findings are not accurate or the conditions described herein are not being met.

Public Comments Solicited

The Service requests interested persons to submit comments and information concerning this proposed IHA. Consistent with section 101(a)(5)(D)(iii) of the MMPA, we are opening the comment period on this proposed authorization for 30 days (see **ADDRESSES**).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state that prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 18, 2008.

Thomas O. Melius,

Regional Director, Alaska Region.

[FR Doc. E8–19731 Filed 8–26–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Agency Information Collection: Comment Request

AGENCY: United States Geological Survey (USGS), Interior.

ACTION: Notice of a new collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we will submit to OMB a new information collection request (ICR) for review and approval. This notice provides the public an opportunity to comment on the paperwork burden of this collection.

DATES: You must submit comment on or before October 27, 2008.

ADDRESSES: Send your comments to the IC to Phadrea Ponds, Information Collections Clearance Officer, U.S. Geological Survey, 2150–C Center Avenue, Fort Collins, CO 80525 (mail); (970) 226–9230 (fax); or *pponds@usgs.gov* (e-mail). Please reference Information Collection 1028–NEW, MASSWELL

FOR FURTHER INFORMATION CONTACT: John A. Colman, U.S. Geological Survey, 10 Bearfoot Road, Northborough, Massachusetts 01532 (mail); at 508–490–5027 telephone; or *jacolman@usgs.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Title: Study on Arsenic and Uranium in Bedrock Wells of East Central Massachusetts.

OMB Control Number: 1028-new.

Abstract: Concerns about possible elevated uranium and arsenic in some aquifers that provide drinking water to east central Massachusetts have prompted state and federal agencies to begin a study to assess concentrations of these contaminants. The U.S. Geological Survey (USGS) and the Massachusetts Department of Environmental Protection (MDEP) are conducting the study with assistance of staff from the Massachusetts Department of Public Health, Bureau of Environmental Health (MDPH/BEH) to assess:

- The number of private wells containing raw-water concentrations of arsenic or uranium that are greater than the current drinking water standards
- The degree to which bedrock units can be associated with concentrations of uranium and arsenic
- Whether individuals consuming the water may have elevated concentrations of these elements in their urine.

The study will indicate whether there are correlations between arsenic and uranium concentrations, and bedrock units. This information will help guide future water-supply development and well-water testing. It will tell local health officials where the areas of concern are in their communities, and provide background concentrations by rock type for use in identifying contamination from human sources.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR Part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked.

Frequency of Collection: One time only.

Respondent's Obligation: Voluntary.

Estimated Number and Description of Respondents: 1000 individual and household residents.

Estimated Number of Responses: 800 responses.

Annual Burden Hours: 400 hours.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate the public reporting burden will average 30 minutes per response. This includes the time for reviewing instructions, collecting a water sample and completing the survey.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'': We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) (44 U.S.C. 3501, *et seq.*) requires each agency'' * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments. We invite comments concerning this information collection on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents. Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done. To comply with the public process, we publish this **Federal Register** notice announcing that we will submit this ICR to OMB for approval. The notice provided the required 60 day public comment period.

USGS Information Collection Clearance Officer: Phadrea D. Ponds, 970–226–9445.

Dated: August 21, 2008.

Matthew Larsen,

Associate Director For Water.

[FR Doc. E8–19825 Filed 8–26–08; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6690–J, AA–6690–K, AA–6690–M, AA–6690–O, AA–6690–A2; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Pedro Bay Corporation. The lands are in the vicinity of Pedro Bay, Alaska, and are located in:

Seward Meridian, Alaska

Lot 2, U.S. Survey No. 8200, Alaska.

Containing 159.99 acres, as shown on the plat of survey officially filed on September 15, 1987.

Lot 4, U.S. Survey No. 8200, Alaska.

Containing 159.96 acres, as shown on the plat of survey officially filed on September 15, 1987.

T. 3 S., R. 26 W.,
Sec. 31.

Containing approximately 629.16 acres.

T. 4 S., R. 27 W.,
Secs. 1, 11, and 15;
Secs. 20 and 21.

Containing approximately 3,078 acres.

T. 5 S., R. 27 W.,
Sec. 22.

Containing approximately 609.69 acres.

T. 4 S., R. 30 W.,
Secs. 15 and 16;
Secs. 19 to 24, inclusive.

Containing approximately 5,046.44 acres.
Aggregating approximately 9,683.24 acres.

The subsurface estate in these lands will be conveyed to Bristol Bay Native Corporation when the surface estate is conveyed to Pedro Bay Corporation. Notice of the decision will also be published four times in the Bristol Bay Times.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until September 26, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from:

Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Jason Robinson,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E8–19845 Filed 8–26–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cedar Creek and Belle Grove National Historical Park Advisory Commission; Notice of Meetings

AGENCY: Department of the Interior, National Park Service.

ACTION: Cedar Creek and Belle Grove National Historical Park Advisory Commission; Notice of Meetings.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Cedar Creek and Belle Grove National Historical Park Advisory Commission will be held to discuss the development of the Park's general management plan.

Dates and Locations: September 18, 2008, at the Strasburg Town Hall Council Chambers, 174 East King St., Strasburg, VA; December 18, 2008, at the Middletown Town Hall Council Chambers, 7875 Church St., Middletown, VA; March 19, 2009, at the Warren County Government Center, 220 N. Commerce Ave., Front Royal, VA; and June 18, 2009, at the Strasburg Town Hall.

All meetings will convene at 9 a.m. and are open to the public.

FOR FURTHER INFORMATION CONTACT: Diann Jacox, Superintendent, Cedar Creek and Belle Grove National Historical Park, (540) 868–9176.

SUPPLEMENTARY INFORMATION: Topics to be discussed at the meetings include: review of draft plan, general management plan public meetings, planning process and schedule, land protection planning, environmental impact analysis, election of a commission chair, and commission sub-committees.

The Park Advisory Commission was designated by Congress to advise on the preparation and implementation of the park's general management plan. Individuals who are interested in the Park, the development of the plan, or the business of the Advisory Commission are encouraged to attend the meetings.

Dated: August 13, 2008.

Christopher J. Stubbs,

Acting Superintendent, Cedar Creek and Belle Grove National Historical Park.

[FR Doc. E8–19800 Filed 8–26–08; 8:45 am]

BILLING CODE 4310–AM–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 21, 2008, a proposed Consent Decree (the ''Decree'') in *United States* v. *City of Newburgh, et al.*, Civil Action No. 08 Civ. 7378 (SCR), was lodged with the United States District Court for the Southern District of New York.

The Decree resolves the claims of the United States, on behalf of the Environmental Protection Agency (''EPA''), under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9607

and 9613, against the City of Newburgh (''Newburgh''), Connell Limited Partnership (''Connell''), International Business Machines Corporation (''IBM''), Northrop Grumman Ship Systems, Inc. (''Northrop''), and the City of Poughkeepsie (''Poughkeepsie'') (collectively, the ''Defendants''), relating to the Consolidated Iron and Metal Company Superfund Site (the ''Site''), located in the City of Newburgh, Orange County, New York. The Site is a former junkyard and scrap metal processing facility that was operated by Consolidated Iron and Metal Company, Inc. (''Consolidated'') from the 1950s until 1999.

In a complaint filed simultaneously with the Decree, the United States alleged that Consolidated, in the course of processing scrap metal materials, contaminated the Site with hazardous substances, including lead, polychlorinated biphenyls and volatile organic compounds. Consolidated is now a defunct company. Newburgh acquired ownership of the Site in 2004. According to the complaint, Newburgh, Poughkeepsie and IBM each arranged for transport of various types of waste containing hazardous substances to the Site. The complaint further charged that wastes were transported to the Site by Luria Brothers and Company, of which Connell and Northrop are alleged successors in interest.

Pursuant to the Decree, the Defendants will pay EPA a total of $12,000,000 over a two-year period to resolve their respective liabilities at the Site. Four other potentially responsible parties who are not named defendants in the case—Consolidated Rail Corporation, Eisner Brothers, Inc., Ford Motor Company, and Kraft Foods Global, Inc.—will pay EPA an additional $62,000 pursuant to the Decree and resolve their potential liability at the Site. The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *City of Newburgh, et al.* , D.J. Ref. 90–11–3–07979/2.

The Decree may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at U.S. EPA Region 2, Office of Regional Counsel, 290 Broadway, New York, New York 10007–1866. During the public comment period, the Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html* . A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–19789 Filed 8–26–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that on August 21, 2008, a proposed consent decree in *United States and the State of Illinois* v. *Crane Composites, Inc.,* No. 08cv4735, was lodged with the United States District Court for the Northern District of Illinois.

In this civil action brought pursuant to the Clean Air Act, 42 U.S.C. 7613, the United States sought to prevent the emission of volatile organic material (''VOM'') in excess of limits imposed by the Illinois State Implementation Plan and the facility's air emission permit issued under Title V of the Act from the Crane Composites, Inc. fiberglass reinforced plastics manufacturing facility in Channahon, Will County, Illinois. The State of Illinois joined this action as co-plaintiff asserting the same claims under the equivalent state laws and regulations. Under the proposed consent decree, Crane Composites will install a permanent total enclosure to capture 100% of its off-gases from its production lines and route those gases to a regenerative thermal oxydizer that will destroy 95% of the VOM and hazardous air pollutants before release to the atmosphere. Under the proposed consent decree, defendant will pay a total of $1,000,000 in civil penalties, divided between the United States (which will receive $800,000) and the State of Illinois. In addition, the proposed consent decree will resolve Crane Composites' past obligations under the Illinois Emission Reduction Market System with a payment to the State of no more than $150,000.

The Department of Justice will accept comments relating to the four proposed consent decrees for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and mailed either electronically to *pubcomment-ees.enrd@usdoj.gov* or in hard copy to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. Comments should refer to *United States and the State of Illinois* v. *Crane Composites, Inc.,* Case No. 08cv4735 (N.D. Ill.) and D.J. Reference No. 90–5-2–1–08836.

The proposed consent decree may be examined at: (1) The Office of the United States Attorney for the Northern District of Illinois, 219 South Dearborn Street, Suite 500, Chicago, Illinois 60604, (312) 353–5300; and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Gaylene Vasaturo (312–886–1811)). During the comment period, the proposed consent decrees may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decree.html* . Copies of the proposed consent decrees may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please refer to the referenced case and D.J. Reference No. 90–5–2–1–08836, and enclose a check in the amount of $11.50 for the consent decrees (46 pages at 25 cents per page reproduction costs), made payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–19818 Filed 8–26–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby

given that a proposed Consent Decree in *Sierra Club, et al.* v. *MasTec North America, Inc., et al.*, No. 03–1697–HO (D. Or.), consolidated with *United States* v. *MasTec, Inc., et al.*, No. 06–6071–HO (D. Or.), was lodged with the United States District Court for the District of Oregon on August 19, 2008.

This proposed Consent Decree concerns complaints filed by the United States against MasTec, Inc. and MasTec North America, Inc. pursuant to section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), to obtain, among other things, injunctive relief from and to impose civil penalties against MasTec, Inc. and MasTec North America, Inc. for violating the Clean Water Act by discharging pollutants in violation of a permit and without a permit into waters of the United States. The proposed Consent Decree resolves certain of the allegations against MasTec, Inc. and MasTec North America, Inc. by requiring them to provide for environmental mitigation and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Kent E. Hanson, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026–3986, and refer to *United States* v. *MasTec, Inc.,* DJ # 90–5–1–1–17191.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Oregon, Wayne L. Morse U.S. Courthouse, 405 East Eighth Avenue, Room 2100, Eugene, OR 97401. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/Consent_Decrees.html* .

Russell Young,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. E8–19817 Filed 8–26–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement

Pursuant To The Government In the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b)

Agency Holding the Meeting: Department of Justice, United States Parole Commission.

Date and Time: 11 a.m., Thursday, August 28, 2008.

Place: U.S. Parole Commission, 5550 Friendship Boulevard 4th Floor, Chevy Chase, Maryland 20815.

Status: Closed.

Matters Considered: The following matter will be considered during the closed meeting: Review of the appointment of a hearing examiner under 18 U.S.C. 4204(a)(2)(A).

Agency Contact: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301)492–5990.

Dated: August 20, 2008.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. E8–19851 Filed 8–26–08; 8:45 am]

BILLING CODE 4410–31–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 26, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Forms and Instructions for Central Liquidity Facility Loans.

OMB Number: 3133–0064.

Form Number: NCUA—7000, 7001, 7002, 7003 and 7004.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Forms used by each borrower from the CLF.

Respondents: Credit unions that borrow from the CLF.

Estimated No. of Respondents/Recordkeepers: 25.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: Other. As the need for borrowing arises.

Estimated Total Annual Burden Hours: 25 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on August 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–19793 Filed 8–26–08; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for a New Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until October 27, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Large Credit Union Financials and Board Packages.

OMB Number: 3133–NEW.

Form Number: None.

Type of Review: New collection.

Description: The region needs the information to effectively monitor financial trends and emerging issues of federally insured credit unions (FICUs) $1 billion or greater between onsite visitations. These institutions present greater risk to the NCUSIF due to their asset size and complexity.

Respondents: Federally insured credit unions (FICUs) with $1 billion or greater in assets.

Estimated No. of Respondents/Recordkeepers: 30.

Estimated Burden Hours per Response: ½ hour (30 minutes).

Frequency of Response: Monthly.

Estimated Total Annual Burden Hours: 180 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on August 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–19794 Filed 8–26–08; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until October 27, 2008.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300.

Type of Review: Revision to the currently approved collection.

Title: Revisions to NCUA Call Reports.

Description: The financial and statistical information is essential to NCUA in carrying out its responsibility for the supervision of federally insured credit unions. The information also enables NCUA to monitor all federally insured credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Respondents: All Credit Unions.

Estimated No. of Respondents/Recordkeepers: 8,049.

Estimated Burden Hours per Response: 6.6 hours.

Frequency of Response: Quarterly.

Estimated Total Annual Burden Hours: 212,494.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–19795 Filed 8–26–08; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 26, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Central Liquidity Facility Repayment Agreement, Regular Member.

OMB Number: 3133–0061.

Form Number: CLF—8703.

Type of Review: Reinstatement of a previously approved collection.

Description: The form is used by CLF regular members borrowing from the CLF.

Respondents: Credit unions which are CLF regular members who borrow from the CLF.

Estimated No. of Respondents/Record keepers: 40.

Estimated Burden Hours Per Response: 2.875 hours.

Frequency of Response: Other. As the need for borrowing arises.

Estimated Total Annual Burden Hours: 115 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on August 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–19796 Filed 8–26–08; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 26, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Central Liquidity Facility Regular Member Membership Application.

OMB Number: 3133–0063.

Form Number: CLF—8702.

Type of Review: Reinstatement of a previously approved collection.

Description: This is a one-time form used to request membership in the CLF.

Respondents: Credit unions seeking membership in the CLF.

Estimated No. of Respondents/Record keepers: 25.

Estimated Burden Hours Per Response: .5 hour.

Frequency of Response: Other. As credit unions request membership in the CLF.

Estimated Total Annual Burden Hours: 12.5 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on August 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–19797 Filed 8–26–08; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on May 30, 2008.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 313, ''Application for Materials License'' and NRC Forms 313A (RSO), 313A (AMP), 313A (ANP), 313A (AUD), 313A (AUT), and 313A (AUS).

3. *Current OMB approval number:* 3150–0120.

4. *The form number if applicable:* NRC Forms 313 and 313A.

5. *How often the collection is required:* There is a one-time submittal of the NRC form 313 (which may include the NRC form 313A series of forms) with information to receive a license. Once a specific license has been issued, there is a 10-year resubmittal of the NRC Form 313 (which may include the NRC form 313A series of forms) with information for renewal of the license. Amendment requests are submitted as needed by the licensee.

There is a one-time submittal for all limited specific medical use applicants of a NRC Form 313A series form to have each new individual identified as a Radiation Safety Officer (RSO), authorized medical physicist (AMP), authorized nuclear pharmacist (ANP), or authorized user or a subsequent submittal of additional information for one of these individuals to be identified with a new authorization on a limited specific medical use license.

NRC Form 313A (RSO) is also used by medical broad scope licensees when identifying a new individual as an RSO or adding an additional RSO authorization for the individual. This submittal may occur when applying for a new license, amendment, or renewal.

NRC Form 313A (ANP) is also used by commercial nuclear pharmacy licensees when requesting an individual be identified for the first time as ANP. This submittal may occur when applying for a new license, amendment, or renewal.

6. *Who will be required or asked to report:* All applicants requesting a license, amendment or renewal of a license for byproduct or source material.

7. *An estimate of the number of annual responses:* 15,127 (2,365 NRC licensees and 12,762 Agreement State licensees).

8. *The estimated number of annual respondents:* 15,127 (2,365 NRC licensees and 12,762 Agreement State licensees).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 65,224 hours (10,205 NRC and 55,019 Agreement State hours).

10. *Abstract:* Applicants must submit NRC Form 313, which may include the six forms in the 313A series, to obtain a specific license to possess, use, or distribute byproduct or source material. These six forms in the 313A series are: (1) NRC Form 313A (RSO), (''Radiation Safety Officer Training and Experience and Preceptor Attestation;'' (2) NRC Form 313A (AMP), (''Authorized Medical Physicist Training and Experience and Preceptor Attestation;'' (3) NRC Form 313A (ANP), ''Authorized Nuclear Pharmacist Training and Experience and Preceptor Attestation;'' (4) NRC Form 313A (AUD), ''Authorized User Training and Experience and Preceptor Attestation (for uses defined under 35.100, 35.200, and 35.500);'' (5) NRC Form 313A (AUT), ''Authorized User Training and Experience and Preceptor Attestation (for uses defined under 35.300);'' and (6) NRC Form 313A (AUS), ''Authorized User Training and Experience and Preceptor Attestation (for uses defined under 35.400 and 35.600).'' The information is reviewed by the NRC to determine whether the applicant is qualified by training and experience, and has equipment, facilities, and procedures which are adequate to protect the public health and safety, and minimize danger to life or property.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by September 26, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Nathan J. Frey, Office of Information and Regulatory Affairs (3150–0120), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Nathan_J._Frey@omb.eop.gov* or submitted by telephone at (202) 395–7345.

The NRC Clearance Officer is Russell Nichols, (301) 415–6874.

Dated at Rockville, Maryland, this 21st day of August, 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–19835 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250–OLA, 50–251–OLA; ASLBP No. 08–869–03–OLA–BD01]

Florida Power and Light Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Florida Power and Light Company

(Turkey Point Nuclear Plant Units 3 and 4)

This proceeding involves a license amendment request from Florida Power and Light Company that would remove notes associated with License Amendment Nos. 221 and 230 at its Turkey Point Nuclear Plant in Miami-Dade County, Florida. In response to a July 29, 2008 Notice of Consideration of Issuance of Amendments to a Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing (73 FR 43,953, 43,956), a request for hearing has been submitted by Thomas Saporito on behalf of himself and Saporito Energy Consultants.

The Board is comprised of the following administrative judges:

William J. Froehlich, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Thomas S. Moore, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Michael F. Kennedy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 21st day of August, 2008.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E8–19834 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment (PRA) will hold a meeting on September 30, 2008, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, September 30, 2008—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the draft NUREG–1855, ''Guidance on the Treatment of Uncertainties Associated with PRAs in Risk-Informed Decisionmaking.'' The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and the Electric Power Research Institute (EPRI) regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Dr. Harold J. VanderMolen, (Telephone: 301–415–6236) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. 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 Official between 8:15 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: August 20, 2008.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E8–19844 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–008]

Dominion Nuclear North Anna, LLC; North Anna Esp Site, Early Site Permit ESP–003; Notice of Consideration of Approval of Transfer of Early Site Permit and Conforming Amendment and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 52.28, ''Transfer of Early Site Permit,'' 10 CFR 50.80, ''Transfer of Licenses,'' and 10 CFR 50.90, ''Application for Amendment of License, Construction Permit, or Early Site Permit,'' approving the direct transfer of the North Anna ESP Site Early Site Permit (ESP–003) currently held by Dominion Nuclear North Anna LLC (DNNA) as permit holder of ESP–003. The transfer would be to Virginia Electric and Power Company, doing business as Dominion Virginia Power (DVP), and Old Dominion Electric Cooperative (ODEC). The Commission is also considering amending the permit for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by DNNA, DVP, and ODEC, DVP and ODEC would become the holders of the Early Site Permit following approval of the proposed permit transfer and would assume all rights, duties, and obligations of ESP–003.

The proposed amendment would delete references to DNNA, reflect DVP and ODEC as the permit holders, and delete certain provisions that are no longer applicable because they applied only to DNNA.

Pursuant to 10 CFR 52.28 and 10 CFR 50.80, no Early Site Permit, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the ESP to any person, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of an Early Site Permit if the Commission determines that the proposed transferee is qualified to hold the permit and that the transfer is otherwise consistent with applicable provisions of law, regulations and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming permit amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315(b), ''[w]here administrative license amendments are necessary to reflect an approved transfer, such amendments will be included in the order that approves the transfer. Any challenge to the administrative license amendment is limited to the question of whether the license amendment accurately reflects the approved transfer.'' In light of the generic determination reflected in 10 CFR 2.1315(b), only public comments with respect to whether the amendment accurately reflects the approved transfer are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention via electronic submission through the NRC E-filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C ''Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)–(viii).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which was promulgated by the NRC on August 28, 2007, (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HearingDocket@NRC.GOV* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal**

Register and served on the parties to the hearing.

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the permit transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments are not subject to the E-Filing rule and should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice. Comments may also be sent by e-mail to *hearingdocket@nrc.gov.*

For further details with respect to this permit transfer application, see the application dated April 24, 2008, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Publicly available records will be accessible electronically from the Agency wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. The accession number for the application is ML081210412. The application is also available at *http://www.nrc.gov/reactors/new-licensing/col.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, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 21st day of August 2008.

For the Nuclear Regulatory Commission.

Thomas A. Kevern,

Senior Project Manager, ESBWR/ABWR Projects Branch 1, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E8–19836 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–26, issued to Entergy Nuclear Operations, Inc. (Entergy or the licensee), for operation of the Indian Point Nuclear Generating Unit No. 2 (IP2) located in Westchester County, New York.

The proposed amendment would change Technical Specification (TS) 3.8.1, Required Action A.4, to allow a one time extension to the completion time for the loss of one offsite power circuit from 72 hours to 144 hours to support replacement of one of the station auxiliary transformer (SAT) cooling oil pumps.

This condition is exigent for IP2, as the cooling pump failure was not anticipated and the maintenance is considered to be urgent. The licensee estimated that the cooling oil pump replacement would take about 60 hours, which leaves little to no margin to the current 72-hour completion time. Circumstances such as delays in removal of old pump or installation of new pump, or additional work activities identified when old pump is removed, or anomalies detected during testing of the new pump while in place, may require some extension of the scheduled work.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. The proposed change will revise the completion time for the loss of one offsite power source from 72 hours to 144 hours. The proposed one time extension of the completion time for the loss of one offsite power circuit does not significantly increase the probability of an accident previously evaluated. The Station Auxiliary Transformer (SAT) is not the initiator of previously evaluated accidents involving a loss of offsite power. The proposed one time extension to the completion time for loss of offsite power will not significantly increase the consequences of an accident previously evaluated. The Technical Specifications continue to require equipment needed to power the 480 V buses that will power safety related equipment necessary to perform any required safety function. The one time extension of the completion time by 72 hours does not affect the design of the SAT, the interface of the SAT with other plant systems, the operating characteristics of the SAT or the reliability of the SAT. Therefore, the proposed change does not involve significant increase in the probability or consequences of previously evaluated accidents.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. The proposed change will only affect the time allowed to restore the operability of the offsite power source through the SAT. The proposed changes do not affect the design, configuration or operation of the plant. There are no changes to the SAT or the supporting systems operating characteristics or conditions. Therefore, there are no potential new system interactions or failures that could create the possibility of a new or different kind of accident from any accident previously evaluated. The plant remains analyzed for a total loss of offsite power.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No. The proposed change will revise the completion time for an offsite AC power circuit but does not affect the Limiting Conditions for Operation used to establish the margin of safety. The increase in the completion time increases the period when the plant may be operating with one offsite power source. The margin of safety is maintained by maintaining the ability to safely shut the plant down and remove residual heat. Actions will be taken to perform work during periods of lower risk to grid stability and to provide assurance that required equipment is kept operable and provided with a backup onsite power source in addition to the normal sources. The proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below:

Within 60 days after the date of publication of this notice, the person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's (''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the basis for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered

complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737. Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submissions.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

For further details with respect to this exigent license application, see the application for amendment dated July 30, 2008, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm.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, or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 19th day of August 2008.

For the Nuclear Regulatory Commission.

John P. Boska,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–19838 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 030–10346; License No.: 50–16084–01; EA–08–196]

In the Matter of Alaska Industrial X-Ray, Inc., Anchorage, AK; Order Modifying License (Effective Immediately)

I

Alaska Industrial X-Ray, Inc. (AIX or Licensee) is the holder of Materials License No. 50–16084–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30–36, 39, 40, and 70 and last amended on November 2, 2007, and due to expire on March 31, 2011. The license authorizes AIX to possess and use sealed radioactive sources in conducting industrial radiography activities in accordance with the conditions specified therein.

II

In June 2007, the NRC conducted an onsite inspection and began an investigation into AIX activities to determine whether deliberate violations of NRC requirements occurred. During the investigation, the NRC discovered that AIX radiographers had conducted radiography activities in violation of 10 CFR 34.41(a) on multiple occasions at the Arctic Slope Regional Corporation Energy Services (ASRC) site and the Golovin site, both temporary jobsites. Of concern is that the NRC previously had issued an identical violation of 10 CFR 34.41(a) involving deliberate misconduct at the ASRC site on April 25, 2001 (EA–01–015). Based on the preliminary information from the investigation, the NRC issued an Order Suspending Licensed Activities (EA–07–261) on October 19, 2007, which, among other conditions, required that AIX suspend its radiography activities until adequate assurance could be provided by independent means that AIX would comply with NRC requirements when conducting licensed activities. On November 8, 2007, the NRC relaxed the Order based on several actions taken and commitments made by AIX to the NRC. The Order was a temporary measure while the NRC completed its investigation and reviewed the results. Once completed, the results of the inspection and investigation were discussed with AIX during a telephonic exit briefing on April 23, 2008, and were documented in NRC Inspection Report No. 030–10346/07–01 dated May 20, 2008.

On June 5, 2008, a predecisional enforcement conference (PEC) was

conducted with AIX in Anchorage, Alaska, to discuss with the company and its employees the apparent violations, their significance, their root causes, and any corrective actions. The individuals of concern included two full-time radiographers, a part-time radiographer, and the former radiation safety officer (RSO) who, at the time of the PEC, was employed by AIX as a full-time radiographer. During the PEC, the four individuals admitted to committing deliberate violations of 10 CFR 34.41(a) at the ASRC site on multiple occasions over a period of several years. This information was substantively consistent with their sworn statements provided to the NRC Office of Investigations. Based on the investigation, the NRC concluded that this violation had occurred on multiple occasions from about 2004 until the investigation in June 2007.

In addition, during the PEC, the NRC staff discussed with the president of AIX that during his first interview on July 24, 2007, he denied that violations of the two-person rule had occurred at the ASRC site. Later, on July 25, 2007, when confronted with information that showed that his radiographers had indeed deliberately violated the two-person rule at the ASRC site, the company president stated that he suspected violations of the two-person rule had occurred at the ASRC site, but took no action to investigate his suspicions or discuss this with his personnel. As a result, the NRC has concluded that the AIX president, with careless disregard, provided the NRC with information about the company that was incomplete or inaccurate, in violation of 10 CFR 30.9(a).

During the PEC, the NRC noted that in 2001 it had issued a Severity Level III violation of 10 CFR 34.41(a) to AIX for deliberate failures to follow the two-person rule at the ASRC site.[1] The fact that a prior enforcement action had been issued for the same violation at the same location was a significant concern to the NRC because it raised questions about the effectiveness of AIX management oversight to prevent recurrence of violations.[2] In fact, a few years later in about 2004, the former AIX RSO, and almost all of AIX's radiographers and assistant radiographers who worked at the ASRC site, began deliberately failing to follow the two-person rule at the ASRC site. Further, the reason the violations reoccurred in 2004–2007 were very similar to the reasons the violations occurred in 2001: The radiographers felt that one-person radiography was safe at the ASRC site, and following the two-person rule was unnecessary because radiographic exposures were performed inside a structure that AIX had built prior to 2001, intended to meet NRC specifications for a permanent radiographic installation.[3]

During the PEC, the company president stated that he could understand why AIX personnel failed to follow the two-person rule and that he (the company president) might have done it himself if he were conducting radiography. One of the reasons for this was the general belief that the structure provided a similar level of protection as a permanent radiographic installation.

The company president stated that he ''probably suspected'' that AIX radiographers were not abiding by the two-person rule, but that he ''never went [to the ASRC site] and tried to catch anybody at it.'' Thus, NRC representatives also questioned AIX regarding the lack of management oversight from both the former AIX RSO and the company president.

In addition to the deliberate violations of 10 CFR 34.41(a) and the willful violation of 10 CFR 30.9(a), the NRC representatives noted three additional concerns during the June 2008 PEC. First, during a tour of the ASRC site, the day prior to the June 5th conference, the two trailers which formed the sides of the structure were found to be unlocked and open. This was of concern to the NRC staff because of the potential that ASRC personnel (considered members of the public for purposes of the regulations) might access the trailers during radiography and be exposed to radiation or remove some of the trailer contents, which could reduce the level of shielding. In addition, this undermined NRC's confidence in AIX to meet its commitments because in its letter dated November 1, 2007, AIX committed to keep the trailers locked and to control access to the trailers. This commitment was made to the NRC as a consideration for lifting the Order Suspending License dated October 19, 2007. On June 4, 2008, the NRC staff requested that AIX review the issue and provide additional assurance it would meet its commitments to the NRC. Second, the NRC staff was concerned that radiation streaming could occur through the back of the structure because there was an opening in between the two trailers which formed the back of the structure. The staff questioned whether radiation surveys were conducted to establish that the radiation rope boundaries were adequate. This was important because of the possibility that ASRC personnel (considered members of the public) might at times be present behind the structure and could be exposed to radiation areas in excess of NRC limits. And third, the NRC staff noted that although the focus of the June 5th PEC was deliberate violations associated with radiography at the ASRC site, other examples of failures to comply with 10 CFR 34.41(a) were identified at AIX's Golovin site. Although the NRC did not find any deliberate misconduct associated with the 10 CFR 34.41(a) violations at the AIX Golovin site, corrective actions were needed to correct the violations at that site.

AIX's corrective actions presented at the June 5th PEC included: (1) Continuing to contract with an independent contractor to conduct inspections of AIX radiographers, as AIX committed in response to the NRC's Order Suspending Licensed Activities (EA–07–261) dated October 19, 2007; (2) changing the RSO in November 2007; (3) reducing the number of radiographic exposures at the Golovin site with NRC-licensed material; (4) modifying contractual agreements with ASRC to reduce schedule pressures and to ensure compliance with 10 CFR 34.41(a); and (5) instituting a disciplinary policy to terminate any radiographer who did not follow the two-person rule. The NRC representatives also discussed concerns about whether the independent oversight was as effective as it could or should be.

These corrective actions did not address the NRC's concerns about AIX's lack of management oversight in AIX's radiography activities including the failure to ensure that its employees, including the former AIX RSO, were following NRC requirements, despite the company president's suspicions that violations were occurring, as well as the fact that corrective actions for the 2001 enforcement action were not effective. As a result, the NRC representatives provided AIX with more time to provide

[1] On April 25, 2001, the NRC issued a Notice of Violation for a Severity Level III violation involving a failure to meet the requirements of 10 CFR 34.41(a) (EA–01–015).

[2] As part of the corrective actions for the 2001 violation involving deliberate failures to follow the two-person rule at the ASRC site, the AIX company president, its former RSO, and all radiographers and assistant radiographers signed a memorandum, in February 2001, acknowledging that the two-person rule was to be followed at the ASRC site. A copy of the memorandum was presented to the NRC in March 2001.

[3] In 2001–2002, AIX had requested that the NRC approve the structure it had built at the ASRC site as a permanent radiographic installation. However, the structure required extensive modifications in order to meet NRC requirements. AIX did not make the modifications and, as a result, the NRC never approved it. If the structure had been approved, then AIX would have been authorized to conduct radiography with only one individual instead of two.

any additional corrective actions. By letter dated June 9, 2008, AIX provided additional corrective actions which included: (1) Conducting monthly safety meetings; (2) a commitment from the company president to independently and personally review (audit) each crew on a quarterly basis at a minimum; (3) performing surveys around the ASRC radiation exposure area, where instantaneous dose rates were found to exceed 20 millirem/hour in several areas, and AIX applying additional dirt (shielding) to the perimeter of the structure; and (4) locking and rebolting the doors to the trailers at the ASRC site which AIX uses as shielding around the area where radiographic exposures are performed.

In summary, based on the information developed during the inspection, the investigation, and the PEC, the NRC has determined that two violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) dated the same day as this Order, and the circumstances surrounding them are described in detail in the subject inspection report and the cover letter accompanying this Order. The violations involve: (1) Performing radiography at a location other than a permanent radiographic installation without the presence of two qualified individuals, in violation of 10 CFR 34.41(a), and (2) failing to provide the NRC with information that was complete and accurate in all material respects, in violation of 10 CFR 30.9(a). The NRC has determined that willfulness was associated with both violations.

In assessing the safety significance of the violations, the NRC notes that, absent deliberate misconduct, performing radiography in violation of the two-person rule is significant because the use of two qualified persons during radiographic operations not only provides for a high level of assurance that members of the public will be prevented from entering the restricted area during those operations, but also provides additional protection for the radiographers should one of them become incapacitated while the source is unshielded. The second violation, providing the NRC with incomplete or inaccurate information, impacts the NRC's ability to perform its regulatory function. The violations were more significant given the pervasive deliberate misconduct on the part of the AIX radiographers and assistant radiographers, as well as a senior company official, the RSO at the time; and the careless disregard on the part of the president of the company, in providing the NRC with information that was incomplete or inaccurate. Therefore, these violations have been categorized in accordance with the NRC Enforcement Policy at Severity Level II.

The NRC has determined that additional actions [4] are needed to provide reasonable assurance that the public health and safety, as well as the health and safety of AIX employees, will be maintained. The circumstances in this case raise serious concerns about AIX company management's ability or desire to ensure licensed activities are conducted without undue risk to the public's health and safety, and that commitments made to the NRC are honored. Therefore, the NRC is issuing an Order to require (1) Continued independent oversight with additional specific conditions to ensure AIX's radiographers follow NRC requirements, (2) that the trailers be locked and that AIX maintain control over the key, (3) that AIX contract with an independent consultant to evaluate the AIX radiation safety procedures for effectiveness, and to provide training to AIX radiographers and assistant radiographers, and (4) that the president of AIX, perform quarterly audits of your radiographers.

III

Based on the above, the NRC has determined that AIX company management, including the company president, have not provided the level of oversight needed for the company to conduct its activities in compliance with NRC requirements and to meet all its commitments to the NRC. Consequently, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 50–16084–01 in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health and safety interest require that License No. 50–16084–01 be modified to require additional actions so as to provide reasonable assurance that the health and safety of the public will be protected. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violations described above is such that the public health and safety interest require that this Order be immediately effective.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202, 2.205, 10 CFR parts 20, 34, and 10 CFR 150.20, *it is hereby ordered,* effective immediately, that License No. 50–16084–01 is modified as follows:

(1) AIX shall continue use of an independent contractor to provide independent oversight of AIX operations.

(a) AIX shall notify the NRC by fax and the contractor documented in AIX's letter dated November 1, 2007, by phone, fax or e-mail, on a weekly basis, of the anticipated AIX work schedule for that week. AIX will immediately notify the contractor daily, by phone, fax and or email, as requested by the contractor, of any changes to AIX scheduled activities. AIX must inform the contractor in writing that the provisions of 10 CFR 30.10 apply to the contractor.

(b) The contractor must conduct unannounced audits and observations of AIX radiography crews during radiographic exposures in a manner and location where he is undetected by the radiography crew. After observing the crews, the contractor may announce himself to the crew in order to complete his audits of the jobsite. The audits must verify that AIX personnel are conducting all operations in a safe manner and in compliance with NRC requirements. The contractor must, to the extent possible, prevent violations from occurring or continuing as he observes the radiography crews, even in situations where the crew has not detected his presence prior to the violation.

(c) The unannounced audits shall be conducted at least twice a month when work is being performed.

(d) At least 50 percent of the time, on average over a year, the contractor must conduct unannounced audits during the second half of work that is scheduled outside of normal business hours. Normal business hours are 8 a.m. to 5 p.m.

(e) The contractor will provide AIX a monthly report of his audit activities. The information will be provided to NRC Region IV at the same time the contractor provides the results to AIX. At a minimum, the information provided shall include: The date and times of the audit; the hours (time of the day) in which the crew worked; the names of the radiographers and assistant radiographers involved in the work;

[4] These actions are in addition to, and separate from, the attached Notice, which imposes a civil penalty at twice the base for the Severity Level II problem in the total amount of $20,800. As fully set out in the Notice, the civil penalty was issued to emphasize the importance of not engaging in deliberate misconduct, self-identifying violations, and taking prompt and comprehensive corrective actions.

whether the contractor was detected by the crew prior to the contractor announcing his presence; and whether or not radiographic operations were performed safely and in compliance with NRC requirements. The monthly reports will be sent to the Director, Division of Nuclear Materials Safety, U.S. NRC Region IV.

(f) Individuals with whom AIX contracts to meet this requirement, must be approved in advance. AIX currently contracts with an individual who has received prior approval and further approval for this individual is not needed. In order to receive prior approval for another individual to perform these independent audits, AIX must provide the NRC with information regarding the individual's qualifications and information concerning any prior working relationships the individual has had with AIX. This information should be sent to the Director, Division of Nuclear Materials Safety, U.S. NRC Region IV.

(2) The trailers that surround the radiographic site at ASRC will be locked during the conduct of radiography. AIX must maintain control over the key such that ASRC personnel cannot obtain the key without the AIX company management's approval.

(3) AIX will contract with an independent consultant to evaluate the effectiveness of its radiation safety and compliance programs.

(a) Within 60 days of the date of this Order, AIX will submit to the NRC for approval, the name(s) and qualifications of an independent consultant to review and evaluate AIX's radiation safety program and compliance program;

(b) Within 30 days of NRC approval of the consultant, the consultant will commence an assessment of AIX's radiation safety program;

(c) The consultant's assessment will review AIX's training program as follows:

(i) Physical observation of each of AIX's radiographers and assistant radiographers, on multiple occasions, during the conduct of radiographic operations, verifying their actions ensure radiation safety and compliance with NRC requirements. At least 25 percent of the observations will be conducted at the ASRC site. The purpose of the observation is to evaluate compliance with NRC requirements and to provide recommendations to AIX management about improving the work practices of AIX radiographers to comply with NRC requirements. The consultant should consider providing recommendations to AIX for complying with NRC requirements during inclement weather (e.g., winter conditions) during radiographic operations.

(ii) Perform independent radiation measurements around AIX's structure used at the ASRC site, taking into account changes in the shielding characteristics as material inside the trailers that form the walls of the structure vary. The purpose of the measurements will be to demonstrate compliance with 10 CFR part 20 limits.

(iii) Evaluate AIX's Operating and Emergency Procedures.

(iv) Evaluate the effectiveness of the current AIX RSO to oversee the AIX radiation safety program and to ensure compliance with NRC requirements;

(v) Within 30 days following completion of its reviews, the consultant will provide AIX a report discussing its findings and recommendations for program improvements. At the same time the consultant provides its report to AIX, the consultant will send a copy to the Director, Division of Nuclear Material Safety, U.S. NRC Region IV.

(d) Within 30 days of receiving the consultant's report, AIX will provide the NRC, in writing, its position on how it will address the consultant's findings. In its correspondence to the NRC, AIX will identify which of the consultant's recommendations it will implement and the time frame in which it will implement the recommendations. For those recommendations AIX does not accept, AIX will provide the NRC with its justification.

(e) The consultant will provide training to all AIX employees, managers, and officials. The training will include:

(i) A review of the radiation mishaps involving radiography devices or gauges;

(ii) A review of the potential actions that NRC may take against an individual;

(iii) A review of NRC requirements, AIX's license conditions; and

(iv) A review of AIX's Operating and Emergency Procedures.

(4) The president of AIX shall perform quarterly audits of his radiographers as they conduct radiography. The audits shall include observations of his crew during radiographic exposures and, to the extent possible, must include observations such that the crew cannot detect his presence. At least 25 percent of the observations will be conducted at the ASRC site during the second half of work that is scheduled outside of the normal business hours of 8 a.m. to 5 p.m. The president of AIX must, to the extent possible, prevent violations from occurring or continuing as he observes the radiography crews, even in situations where the crew has not detected his presence prior to the violation. These audits must be separate and apart from any required audits performed for compliance with 10 CFR 34.43(e). Records shall be maintained documenting these audits and the results of his observations.

(5) Information that is required to be sent to the NRC in Conditions 1–4 above shall be addressed to: Director, Division of Nuclear Materials Safety, U.S. NRC Region IV; 612 East Lamar Blvd., Suite 400, Arlington, TX 76011.

The Regional Administrator, Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, the Licensee and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic

Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by a Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 20th day of August 2008.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E8–19831 Filed 8–26–08; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[IA–08–006]

In the Matter of Mr. Kenneth J. Vandiver; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Kenneth J. Vandiver is employed as a radiographer at Alaska Industrial X-Ray, Inc. (AIX) located in Anchorage, Alaska, and until November 2007, Mr. Vandiver was the radiation safety officer (RSO) for AIX. AIX holds License No. 50–16084–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34 to conduct radiography. The license authorizes AIX to possess sealed radioactive sources for use in conducting industrial radiography activities in accordance with the conditions specified therein.

II

On June 4, 2007, an investigation was initiated by the NRC's Office of Investigations (OI), in part, to determine whether Mr. Vandiver, as RSO, engaged in deliberate misconduct by performing radiography with only one radiographer present at the Arctic Slope Regional Corporation Energy Services (ASRC) facility, a temporary jobsite. A predecisional enforcement conference (PEC) was held on June 5, 2008, with employees of AIX, including Mr. Vandiver, in an effort to obtain AIX's point of view on the violations.

Based on our review of the information obtained during the PEC and from the investigation, two violations of the NRC's rule prohibiting deliberate misconduct, 10 CFR 30.10, were identified.

First, Mr. Vandiver engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) by causing AIX to be in violation of 10 CFR 34.41(a) when he conducted radiography alone at the ASRC facility on numerous occasions since about 2004. Second, he provided information that he knew was

incomplete and inaccurate during his sworn statement to NRC investigators, in violation of 10 CFR 30.10(a)(2), on July 24, 2007, when Mr. Vandiver stated that he always abided by the two-person rule (10 CFR 34.41(a)), and that there had never been an occasion in which he conducted radiographic operations by himself. He also stated that to the best of his knowledge, as RSO, that AIX personnel were following the two-person rule. However, later on July 25, 2007, after the NRC had been informed by other radiographers and radiographer's assistants that he had performed radiography by himself at times at the ASRC site, Mr. Vandiver admitted to violating the two-person rule. Mr. Vandiver also admitted to having left a radiographer alone at the ASRC site on occasions to conduct radiography while he returned to the Golovin site to develop film. During a third interview conducted on January 10, 2008, Mr. Vandiver provided substantially the same information about his actions and the actions of other AIX radiographers in violation of the two-person rule.

Despite Mr. Vandiver's limited recollection during the PEC held June 5, 2008, we note Mr. Vandiver was aware of previous NRC enforcement action taken against AIX for the same violation at the same location.[1] In fact, Mr. Vandiver was a primary spokesperson for the company's position during the 2001 PEC with the NRC, and signed a memorandum in response to this violation indicating acknowledgement of the need to comply with the two-person rule.

The NRC has also concluded that Mr. Vandiver's deliberate misconduct is significant because he did not perform the duties of an RSO as described in 10 CFR 34.42. Specifically, as RSO he was responsible for ensuring that radiation safety activities were being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's program. In this case, not only did Mr. Vandiver deliberately violate 10 CFR 34.41(a), he was also aware that other AIX radiographers were deliberately violating this requirement and took no actions to stop it. Then, when questioned by the NRC, he knowingly provided incomplete and inaccurate information about the violations.

[1] On April 25, 2001, the NRC issued a Notice of Violation for a Severity Level III violation involving a failure to meet the requirements of 10 CFR 34.41(a) (EA–01–015).

III

The NRC must rely on Licensees and their employees to act with integrity in complying with NRC requirements, and communicating with candor. In addition, the NRC has greater expectations for company managers, including radiation safety officers, to fulfill their required responsibilities in providing oversight of company activities to ensure that NRC requirements are followed. Mr. Vandiver's actions raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that Mr. Vandiver will perform licensed activities in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Vandiver were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health and safety interest require that Mr. Vandiver be prohibited from any involvement in NRC-licensed activities for a period of 3 years from the date of this Order. Additionally, Mr. Vandiver is required to notify the NRC of his first employment in NRC-licensed activities for a period of 1-year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Vandiver's conduct described above is such that the public health and safety interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR Parts 20, 34, and 10 CFR 150.20, *it is hereby ordered,* effective immediately, that:

1. Mr. Kenneth J. Vandiver is prohibited for 3 years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Vandiver is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. For a period of 1-year after the 3-year period of prohibition has expired, Mr. Vandiver shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Vandiver shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Vandiver of good cause.

V

In accordance with 10 CFR 2.202, Mr. Kenneth J. Vandiver must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, Mr. Vandiver and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which

it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

If a person other than Mr. Vandiver requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by Mr. Vandiver or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Vandiver, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 20th day of August 2008.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E8–19832 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–08–008]

In the Matter of Mr. Patrick A. Kelly; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Patrick A. Kelly is employed as a radiographer at Alaska Industrial X-Ray, Inc. (AIX) located in Anchorage, Alaska. AIX holds License No. 50–16084–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 34 to conduct radiography. The license authorizes AIX to possess sealed radioactive sources for use in conducting industrial radiography activities in accordance with the conditions specified therein.

II

On June 4, 2007, an investigation was initiated by the NRC's Office of Investigations (OI), in part, to determine whether Mr. Kelly engaged in deliberate misconduct by performing radiography with only one radiographer present at the Arctic Slope Regional Corporation Energy Services (ASRC) facility, a temporary jobsite. A predecisional enforcement conference (PEC) was held on June 5, 2008, with employees of AIX, including Mr. Kelly, in an effort to obtain AIX's point of view on the violations.

Based on our review of the information obtained during the PEC and from the investigation, two violations of the NRC's rule prohibiting deliberate misconduct, 10 CFR 30.10, were identified. First, Mr. Kelly engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) by causing AIX to be in violation of 10 CFR 34.41(a) (also called the two-person rule) when he

conducted radiography alone at the ASRC facility on numerous occasions since about 2004. Second, he provided information that he knew was incomplete and inaccurate during his sworn statement to NRC investigators, in violation of 10 CFR 30.10(a)(2), on July 24, 2007.

During his interview on July 24, 2007, Mr. Kelly admitted to conducting radiography by himself at the AIX Golovin site because he thought it was a permanent radiographic installation. If it were a permanent radiographic installation, conducting radiography with only one qualified individual would have been allowed under NRC regulations. However, the NRC inspector pointed out that the AIX Golovin site was not approved as a permanent radiographic installation and, therefore, two qualified individuals were required to be present during radiography. The NRC did not find that Mr. Kelly engaged in deliberate misconduct with regard to violating the two-person rule at the Golovin site. However, during that interview, he denied that there were times when he conducted radiography by himself in violation of the two-person rule at the ASRC site. Later, when asked if he always followed the two-person rule at the ASRC site, he answered yes. When asked if he could remember any of the other AIX radiographers conducting radiographic operations with less than two people, he answered no.

However, on January 10, 2008, after being confronted with information from other radiographers and radiographers' assistants that he had performed radiography by himself at times at the ASRC site, Mr. Kelly admitted to deliberately violating the two-person rule (10 CFR 34.41(a)). Mr. Kelly stated that although he worked mainly at another client's facility, there were times when he worked at the ASRC site and some of those times he conducted radiographic operations in violation of the two-person rule. He stated that he, along with the former AIX radiation safety officer and another AIX radiographer took it upon themselves to decide it was acceptable to conduct radiography in violation of the two-person rule because of the facility that AIX had built at the ASRC site.[1] He stated that when one person was ''shooting'' (conducting radiography), the other person would just return to the AIX Golovin site to develop film. He stated, ''We knew we were breaking the rules.''

The NRC notes that Mr. Kelly was aware of previous NRC enforcement action taken against AIX,[2] and was present at the March 2001 predecisional enforcement conference with AIX when the NRC and AIX discussed whether another AIX employee engaged in deliberate misconduct for conducting radiography by himself at the ASRC site. This is the same violation at the same location that is being cited herein, and as part of AIX's corrective action, all AIX radiographers, including Mr. Kelly, signed a memorandum in February 2001 acknowledging that the two-person rule for radiographers and radiographer assistants requires that, during exposures, two individuals must monitor the radiation area. This memorandum was attached to a letter dated March 12, 2001, in which AIX stated that all radiographers had been advised of the two-person rule. This letter was discussed during the March 2001 predecisional enforcement conference which Mr. Kelly attended.

III

The NRC must rely on Licensees and their employees to act with integrity in complying with NRC requirements, and communicating with candor. Mr. Kelly's actions raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that Mr. Kelly will perform licensed activities in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Kelly were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health and safety interest require that Mr. Kelly be prohibited from any involvement in NRC-licensed activities for a period of 1 year from the date of this Order. Additionally, Mr. Kelly is required to notify the NRC of his first employment in NRC-licensed activities for a period of 1-year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Kelly's conduct described above is such that the public health and safety interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR Parts 20, 34, and 10 CFR 150.20, *it is hereby ordered,* effective immediately, that:

1. Mr. Patrick A. Kelly is prohibited for 1-year from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Kelly is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. For a period of 1 year after the 1-year period of prohibition has expired, Mr. Kelly shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Kelly shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Kelly of good cause.

V

In accordance with 10 CFR 2.202, Mr. Patrick A. Kelly must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, Mr. Kelly and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to

[1] In 2001–2002, AIX had requested that the NRC approve the structure it had built at the ASRC site as a permanent radiographic installation. However, the structure required extensive modifications in order to meet NRC requirements. AIX did not make the modifications and, as a result, the NRC never approved it. If the structure had been approved, then AIX would have been authorized to conduct radiography with only one individual instead of two.

[2] On April 25, 2001, the NRC issued a Notice of Violation for a Severity Level III violation involving a failure to meet the requirements of 10 CFR 34.41(a) (EA–01–015).

the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer(TM) to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer(TM) is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person other than Mr. Kelly requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by Mr. Kelly or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Kelly, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 20th day of August, 2008.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E8–19833 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Office of New Reactors; Supplement to Interim Staff Guidance; Limited Work Authorizations Solicitation of Public Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Solicitation of public comment.

SUMMARY: The NRC is issuing a supplement to its Proposed Interim Staff Guidance (ISG) COL/ESP–ISG–004 for use and comment. This supplemental guidance would be added, along with the resolution of other issues identified in comments received from the public, to COL/ESP–ISG–004 to provide clarifications and examples related to

the definition of construction. This additional guidance is intended to clarify the delineation of preconstruction activities and those activities that require prior NRC approval (i.e., construction activities). Upon receiving public comments, the NRC staff will evaluate and disposition the comments, as appropriate. Once the NRC staff completes the COL/ESP–ISG, including this supplemental information, the staff will issue it for use. The NRC staff will also incorporate the approved COL/ESP–ISG–004 into the next revisions of the Regulatory Guide 1.206, ''Combined License Applications for Nuclear Power Plants,'' and related guidance documents.

DATES: Comments must be filed no later than 30 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted to: Chief, Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001. Comments should be delivered to: 11545 Rockville Pike, Rockville, Maryland, Room T–6D59, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Persons may also provide comments via e-mail to *nrcrep.resource@nrc.gov*. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *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 Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry N. Wilson, Division of New Reactor Licensing, Office of the New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone 301–415–3145 or e-mail at *Jerry.Wilson@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC posts its issued staff guidance, including the subject supplement to draft COL/ESP–ISG–004, on the NRC external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

The NRC staff is issuing this notice to solicit public comments on the supplement to proposed COL/ESP–ISG–004. After the NRC staff considers any public comments, it will make a determination regarding the proposed COL/ESP–ISG–004.

Dated at Rockville, Maryland, this 19th day of August, 2008.

For the Nuclear Regulatory Commission.

David B. Matthews,

Division Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E8–19830 Filed 8–26–08; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

International Product Change—Global Plus 2 Negotiated Service Agreements

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: Postal Service notice of filing a request with the Postal Regulatory Commission to add Global Plus 2 Negotiated Service Agreements to the Competitive Products List pursuant to 39 U.S.C. 3642 and 3632(b)(3).

DATES: August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Margaret M. Falwell, 703–292–3576

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that it has filed with the Postal Regulatory Commission a *Request of United States Postal Service to Add Global Plus 2 Negotiated Service Agreements to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling Governor's Decision and Two Functionally Equivalent Agreements.* Documents are available at *http://www.prc.gov*, Docket Nos. MC2008–7, CP2008–16, and CP2008–17.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E8–19802 Filed 8–26–08; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—Inbound Direct Entry Contracts

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: Postal Service notice of filing a request with the Postal Regulatory Commission to add Inbound Direct Entry Contracts with Foreign Postal Administrations to the Competitive Products List pursuant to 39 U.S.C. 3642 and 3632(b)(3).

DATES: August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Margaret M. Falwell, 703–292–3576

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that it has filed with the Postal Regulatory Commission a *Request of United States Postal Service to Add Inbound Direct Entry Contracts with Foreign Postal Administrations to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling Governor's Decision and Two Functionally Equivalent Contracts with Foreign Posts.* Documents are available at *http://www.prc.gov*, Docket Nos. MC2008–6, CP2008–14, and CP2008–15.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E8–19801 Filed 8–26–08; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 8–A, OMB Control No. 3235–0056, SEC File No. 270–54.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form 8–A (17 CFR 249.208a) is a registration statement for certain classes of securities pursuant to sections 12(b) and 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(b) and 78*l*(g)). Section 12(a) (15 U.S.C. 78*l*(a) requires securities traded on national exchanges to be registered under the Exchange Act (15 U.S.C. 78a *et seq.*). Section 12(b) establishes the registration procedures. Section 12(g), and Rule 12g–1 (17 CFR 240.12g–1) promulgated thereunder, extended the Exchange Act registration requirements to issuers engaged in interstate commerce, or in a business affecting interstate commerce, and having total assets of $10,000,000 or more and a class of equity security held of record by 500 or more persons. The respondents are companies offering securities. The information must be filed with the Commission on occasion. Form 8–A is a public document and filing is mandatory. The form takes approximately 3 hours to prepare and is

filed by 1,170 respondents for a total of 3,510 annual burden hours.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *Alexander_T._Hunt@omb.eop.gov*; and (ii) Lewis W. Walker, Acting Director/ Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 20, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19820 Filed 8–26–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on August 27, 2008 at 10 a.m., in the Auditorium, Room L–002.

Commissioner Paredes, as duty officer, determined that no earlier notice thereof was possible.

The subject matter of the Open Meeting will be:

1. The Commission will consider whether to adopt amendments to its rules regarding the circumstances under which a foreign private issuer is required to register a class of equity securities under Section 12(g) of the Exchange Act.

2. The Commission will consider whether to adopt amendments to the forms and rules applicable to foreign private issuers that are intended to enhance the information that is available to investors.

3. The Commission will consider whether to adopt revisions to the current exemptions for cross-border business combination transactions and rights offerings to expand and enhance the usefulness of the exemptions, and to adopt changes to the beneficial ownership reporting rules to permit certain foreign institutions to file reports on a shorter form. The Commission also will consider whether to publish interpretive guidance on issues related to cross-border transactions.

4. The Commission will consider whether to propose a Roadmap for the potential use by U.S. issuers for purposes of their filings with the Commission of financial statements prepared in accordance with International Financial Reporting Standards (''IFRS'') as issued by the International Accounting Standards Board. As part of the Roadmap, the Commission will also consider whether to propose amendments to various rules and forms that would permit early use of IFRS by a limited number of U.S. issuers.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: August 22, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19857 Filed 8–26–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58407; File No. SR–DTC–2008–10]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Changes to the Collateral Loan System

August 21, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 1, 2008, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4)[3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the rule change is to (i) modify record layouts for the Collateral Loan System to comply with the new Symbology series key defined by the Options Symbology Initiative (''OSI'') and (ii) implement record layout changes that will allow The Options Clearing Corporation (''OCC'') members to process collateral loan transactions directly against OCC sub-accounts.[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, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Options Symbology Initiative

Currently organizations that support trading in listed options typically use a three to five alpha character representation. The first three characters identify the option root symbol, and the remaining two alpha characters identify the expiration month, call/put indicator, and strike price. In an effort to standardize option symbols and overhaul the existing method of identifying exchange-listed options contracts, OCC is spearheading an industry-wide adoption of the OSI.[6]

The OSI supports the elimination of alpha codes that are currently used to denote expiration month, call/put code, and strike price. As a result, DTC is proposing to modify its record layouts for DTC's Collateral Loan System to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] For more information regarding the record layout changes, see DTC Important Notice B 3577–08. *http://www.dtcc.com/downloads/legal/imp_notices/2008/dtc/set/3577–08.pdf.*

[5] The Commission has modified the text of the summaries prepared by DTC.

[6] For more information about The Options Clearing Corporation's Options Symbology Initiative see the most recent plan at *http://www.theocc.com/initiatives/symbology/implementation_plan.jsp.*

comply with the new Symbology series key defined by the OSI. DTC believes these changes will increase efficiency and improve the mechanism for participants to perform under the OSI initiative.

2. OCC Sub-Accounting Initiative

The purpose of the OCC sub-accounting initiative is to eliminate the need for multiple OCC clearing member numbers. OCC sub-accounting also allows OCC clearing members to separate retail and professional customers for purposes of reserve/PAIB computations [7] and to separate traditional and portfolio margin customers for purposes of portfolio margining. In support of the OCC sub-accounting initiative, OCC has requested that DTC implement record layout changes that will allow OCC members to process collateral loan transactions directly against these OCC sub-accounts.

The OCC has mandated that modifications for the OSI and the OCC sub-accounting initiative be implemented simultaneously because both initiatives require modifications to input and output file formats as well as some of DTC's screen based applications on the Participant Terminal System (''PTS'') and Participant Browser Services (''PBS'').[8] OCC has requested that DTC implement these changes on August 8, 2008, so that OCC members can begin to migrate to the new formats. OCC has mandated that OCC members be ready to use the new formats by October 10, 2008.

The proposed rule change is consistent with Section 17A of the Act,[9] as amended, because it will reduce operational and financial risks associated with multiple OCC clearing member numbers thereby promoting the prompt and accurate clearance and settlement of securities transactions. Additionally, record layout modifications will increase efficiency and improve the mechanism for DTC Participants to perform under the OSI initiative.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(4) [11] thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty 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–DTC–2008–10 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–DTC–2008–10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2008/dtc/2008–10.pdf*. 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–DTC–2008–10 and should be submitted on or before September 17, 2008.

[7] Commission customer protection rules require firms to compute the amount a clearing firm must place in a reserve account to back their customers' assets. There are effectively two calculations: One for retail customers (''Reserve'') and one for the proprietary accounts of introducing brokers (''PAIB''). Under both of these calculations the clearing firm is allowed to take as a debit in the calculation OCC's clearing level margin associated with these customers' positions. At the clearinghouse level both Reserve and PAIB customers are cleared in the customer range, and currently only one margin requirement is produced. Since the OCC margin requirement is comprised of both Reserve and PAIB clients, clearing firms do not use the OCC margin requirement as a debit in their computations. As a result, firms have to post more in their Reserve accounts since they cannot use the offsets provided for under Commission customer protection rules.

OCC sub-accounting would provide clearing firms with the ability to maintain subaccounts under the customer range for Reserve customers and PAIB customers. As a result, OCC could compute two separate margin requirements to which the clearing firm can post collateral and apply Reserve and PAIB calculations. This would free up additional liquidity for clearing firms that currently cannot include the OCC margin in the customer protection rule computations due to the inability to create a subaccount.

[8] Participants use DTC's Collateral Loan function on the PTS to pledge securities to OCC in order to meet OCC's option collateralization requirements. Participants can also use PTS to input requests for the release of securities pledged to OCC, and OCC can use PTS to approve or cancel release requests.

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(4).

[12] 17 CFR 200.30–3(a)(12).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19822 Filed 8–26–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58401; File No. SR–ISE–2008–63]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to the Price Improvement Mechanism

August 21, 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 31, 2008, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 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 modify its Price Improvement Mechanism (PIM) auction eligibility requirements to eliminate the requirement that there be at least three market makers quoting the relevant series. The text of the proposed rule change is available on the Exchange's Web site *(http://www.ise.com),* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II.Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to provide additional opportunities for price improvement, the Exchange proposes to expand the PIM auction process. The Exchange's PIM permits Electronic Access Members (''EAMs'') to provide penny price improvement for agency orders.[3] ISE's current rules require, among other things, that an EAM enter an order into the PIM only when there are at least three market makers quoting in the options series. The Exchange is now proposing to eliminate this requirement.

The Exchange does not believe that orders should be denied the benefits of the PIM auction simply because there may be less than three ISE market makers quoting in a particular series. The Exchange believes this is a reasonable modification designed to provide additional flexibility for members to obtain executions on behalf of their customers while continuing to provide a meaningful, competitive auction.

In support of its proposal, the Exchange notes the ISE and other options exchanges already have provisions within their rules that permit price improvement in non-standard increments without a condition that there be a minimum number of market makers quoting in the particular series. For example, ISE has electronic auction mechanisms for crossing agency order with facilitation or solicited orders (referred to as the ''Facilitation Mechanism'' and ''Solicited Order Mechanism'') in ''split price'' increments (*e.g.*, $1.025, $1.05 and $1.075 for series trading in $0.05 increments. The Facilitation and Solicited Order Mechanisms do not require that there be any minimum number of ISE market makers quoting in the particular series.[4] Further, the Chicago Board Options Exchange (''CBOE'') has an electronic auction mechanism for crossing agency orders for 500 contracts or more with solicited orders (referred to as the ''Solicitation Auction Mechanism'') in increments as small as $0.01. This CBOE Solicitation Auction Mechanism does not require that there be any minimum number of CBOE market makers quoting in the particular series.[5] Finally, the NASDAQ Options Market (''NOM'') has a procedure that permits a member who enters an agency order in penny increments (which is then rounded and displayed at the standard increment price) to enter a contra-side order in penny increments after the agency order has been exposed at the rounded price for three seconds. This NOM crossing procedure does not require that there be any minimum number of NOM market makers quoting in the particular series.[6]

Because these other mechanisms are currently able to offer price improvement in a non-standard increment without a minimum quoter requirement, the Exchange believes it is essential for competitive reasons to be able to offer the same opportunities for price improvement on ISE through the PIM.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5) of the Act[8] in particular in that it is designed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A crossing transaction consists of an order the EAM represents as agent and a counter-side order. The counter-side order may represent interest for the EAM's own account or interest the EAM may have solicited from one or more parties, or both.

[4] *See* ISE Rule 716.

[5] *See* CBOE Rule 6.74B.

[6] When using the NOM crossing procedure to achieve an execution in penny increments, there is no requirement that there be any NOM market makers quoting the particular series or that they even be aware that the initiating NOM member is attempting to cross an order in an undisplayed penny increment. For example, a NOM member could enter an agency limit order to buy at $1.03 that is rounded and displayed at $1.00, wait three seconds, then enter a principal or solicited order to sell at $1.03. Although the initiating member knows it has entered an agency order to buy at $1.03, other market participants would only see the size of the agency order displayed on the bid at $1.00. *See* NOM Chapter IV, Section 5, Chapter VI, Sections 7(b) and 10, and Chapter VII, Sections 6 and 12. The Exchange understands that NOM's method of crossing orders in non-standard increments differs from ISE's PIM in so much as PIM will allocate the initiating Member a certain minimum participation entitlement if certain conditions are met (*e.g.*, after public customer orders, 40% of the order is allocated to the initiating Member if its single-price submission equals the best price), whereas NOM does not have any such participation entitlement. However, the Exchange does not believe this distinction is dispositive to our proposal to eliminate the requirement that there be a minimum number of quoters for a PIM auction. In this regard, we note that participation entitlements already apply to the ISE Facilitation and Solicited Order Mechanisms and the CBOE Solicitation Auction Mechanism. *See* ISE Rule 716 and CBOE Rule 6.74B. The Exchange also notes that an Agency Order displayed through ISE's PIM process will receive the benefit of any price improvement received during the auction, whereas an agency order displayed on NOM generally will not get any price improvement beyond its limit price (using the example above, once displayed at the rounded price the agency order to buy will generally only execute at $1.03, not better).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposed rule change will allow members to guarantee executions and provide additional price improvement opportunities to their customer's orders. The Exchange believes this is a reasonable modification designed to provide additional flexibility for members to obtain executions on behalf of their customers while continuing to provide a meaningful, competitive auction.

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

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 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–2008–63 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–63. 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 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 the 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–2008–63 and should be submitted on or before September 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–19821 Filed 8–26–08; 8:45 am]

BILLING CODE 8010–01–P

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11264 and #11265]

Iowa Disaster Number IA–00015

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 12.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1763–DR), dated 05/27/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/25/2008 and continuing through 08/13/2008.

Effective Date: 08/13/2008.

Physical Loan Application Deadline Date: 09/29/2008.

EIDL Loan Application Deadline Date: 02/27/2009.

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 Iowa, dated 05/27/2008 is hereby amended to establish the incident period for this disaster as beginning 05/25/2008 and continuing through 08/13/2008.

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. E8–19868 Filed 8–26–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11370]

New Hampshire Disaster #NH–00006

AGENCY: U.S. Small Business Administration.

ACTION: Correction.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA–1782–DR), dated 08/11/2008.

Incident: Severe Storms, Tornado, and Flooding.

Incident Period: 07/24/2008.

Effective Date: 08/11/2008.

Physical Loan Application Deadline Date: 10/10/2008.

Economic Injury (EIDL) Loan Application Deadline Date: Correction 05/11/2009.

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: M. Mitravich, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/11/2008, private non-profit organizations that provide essential services of governmental nature may file disaster loan applications 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:

Belknap, Carroll, Rockingham

Contiguous Counties (Economic Injury Loans Only):

New Hampshire: Coos, Grafton, Hillsborough, Merrimack, Strafford

Maine: Oxford, York

Massachusetts: Essex

The Interest Rates are:

	Percent
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 and for economic injury is 11370.

(Catalog of Federal Domestic Assistance Number 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–19869 Filed 8–26–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11393]

New Mexico Disaster #NM–00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Mexico (FEMA–1783–DR), dated 08/14/2008.

Incident: Severe Storms and Flooding.

Incident Period: 07/26/2008 and continuing

Effective Date: 08/14/2008

Physical Loan Application Deadline Date: 10/14/2008

Economic Injury (EIDL) Loan Application Deadline Date: 05/14/2009

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 President's major disaster declaration on 08/14/2008, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications 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: Lincoln, Otero

Contiguous Counties (Economic Injury Loans Only):

New Mexico: Chaves, De Baca, Dona Ana, Eddy, Guadalupe, Sierra, Socorro, Torrance

Texas: Culberson, El Paso, Hudspeth

The Interest Rates are:

	Percent
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 and for economic injury is 11393.

(Catalog of Federal Domestic Assistance Number 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–19872 Filed 8–26–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11382 and #11383]

Pennsylvania Disaster #PA–00018

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of PENNSYLVANIA dated 08/20/2008.

Incident: Apartment Complex Fire.

Incident Period: 08/13/2008.

Effective Date: 08/20/2008.

Physical Loan Application Deadline Date: 10/20/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 05/20/2009.

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: Montgomery.

Contiguous Counties:

Pennsylvania: Berks, Bucks, Chester, Delaware, Lehigh, Philadelphia.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	.750
Homeowners Without Credit Available Elsewhere	2.875
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 11382 5 and for economic injury is 11383 0.

The State which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: August 20, 2008.

Sandy K. Baruah,

Acting Administrator.

[FR Doc. E8–19873 Filed 8–26–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11394]

Vermont Disaster #VT–00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Vermont (FEMA–1784–DR), dated 08/15/2008.

Incident: Severe storms, a tornado, and flooding.

Incident Period: 07/18/2008.

Effective Date: 08/15/2008.

Physical Loan Application Deadline Date: 10/14/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 05/15/2009.

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 President's major disaster declaration on 08/15/2008, private non-profit organizations that provide essential services of governmental nature may file disaster loan applications 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:

Caledonia, Grand Isle, Lamoille.

Contiguous Counties (Economic Injury Loans Only):

Vermont: Chittenden, Essex, Franklin, Orange, Orleans, Washington.

New Hampshire: Grafton.

New York: Clinton.

The Interest Rates are:

	Percent
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 and for economic injury is 11394.

(Catalog of Federal Domestic Assistance Number 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–19889 Filed 8–26–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11342]

Texas Disaster Number TX–00298

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 Texas (FEMA—1780—DR), dated 07/24/2008.

Incident: Hurricane Dolly.

Incident Period: 07/22/2008 through 08/01/2008.

Effective Date: 08/13/2008.

Physical Loan Application Deadline Date: 09/22/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 04/24/2009.

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 Private Non-Profit organizations in the State of Texas, dated 07/24/2008, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Jim Hogg.

Contiguous Counties (Economic Injury Loans Only): Webb.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–19888 Filed 8–26–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6336]

Designation of Entities Under Section 4(a)(1) of the Libyan Claims Resolution Act of 2008

SUMMARY: Pursuant to Section 4(a)(1) of the Libyan Claims Resolution Act, enacted August 4, 2008 (Pub. L. 110–301), I hereby designate the following entities to assist in providing compensation to the nationals of the United States, pursuant to the Claims Settlement Agreement between the United States and Libya of August 14, 2008:

1—The Humanitarian Settlement Fund, Tripoli, Libya

2—Citibank, N.A., New York, NY

3—The Federal Reserve Bank of New York

4—The U.S. Department of the Treasury

5—The Libyan Foreign Bank, Tripoli, Libya

Accordingly, property related to the entities shall be accorded the immunity provided for in section 4(b) of the Libyan Claims Resolution Act in addition to any other applicable immunity notwithstanding any other provision of the law, and the entities and any other person acting or on behalf of them shall not be liable in any Federal or State court for any action to implement The Claims Settlement Agreement between the United States and Libya of August 14, 2008.

This designation shall be effective August 26, 2008.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E8–19980 Filed 8–26–08; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 2008.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750

Pennsylvania Avenue, NW. Washington, DC 20220.

DATES: Written comments should be received on or before September 26, 2008 to be assured of consideration.

Office of Foreign Assets Control

OMB Number: 1505–0168.
Type of Review: Extension.
Title: Travel Service Provider and Carrier Service Provider Submission
Description: Submissions will provide the U.S. Government with information to be used in enforcing various economic sanctions programs administered by OFAC under 31 CFR Chapter V.
Respondents: Businesses and other for-profit institutions.
Estimated Total Reporting Burden: 19,000 hours.
OMB Number: 1505–0202.
Type of Review: Extension.
Title: Request for a Specific License to Visit an Immediate Family Member.
Forms: TD-F–90–22.60, TD-F–90–22.60 (SP).
Description: Submissions will provide the U.S. Government with information to be used in enforcing the limitations on Cuba travel-related transactions incident to visiting immediate family members by persons subject to U.S. jurisdiction.
Respondents: Individuals or households.
Estimated Total Reporting Burden: 5,833 hours.
Clearance Officer: Office of Foreign Assets Control, (202) 622–0596, Office of the Chief Counsel, Room 2176 Treasury Annex, Washington, DC 20220.
OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,
Treasury PRA Clearance Officer.

[FR Doc. E8–19808 Filed 8–26–08; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 2008.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before September 26, 2008 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0001.
Type of Review: Extension.
Title: Employer's Annual Railroad Retirement Tax Return.
Forms: CT–1.
Description: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA). Form CT–1 is used for this purpose. IRS uses the information to insure that the employer has paid the correct tax.
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 46,359 hours.

OMB Number: 1545–0058.
Type of Review: Extension.
Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.
Form: 1028.
Description: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in IRC section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.
Respondents: Businesses and other for-profit institutions, farms.
Estimated Total Burden Hours: 2,545 hours.

OMB Number: 1545–1794.
Type of Review: Extension.
Title: Compensatory Stock Options Under Section 482.
Description: The information will be used to determine whether the participants in a qualified cost sharing arrangement are sharing stock-based compensation costs attributable to the intangible development area in proportion to reasonably anticipated benefits as required by the proposed amendment to the cost sharing regulations.
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 2,000 hours.

OMB Number: 1545–1269.
Type of Review: Extension.
Title: PS–7–90 (Final) Nuclear Decommissioning Fund Qualification Requirements.
Description: If a taxpayer requests, in connection with a request for a schedule of ruling amounts, a ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.
Respondents: Businesses and other for-profit institutions.
Estimated Total Burden Hours: 150 hours.

OMB Number: 1545–1762.
Type of Review: Extension.
Title: Direct Deposit of Corporate Tax Refund.
Form: 8050.
Description: This form is used to request a deposit of a tax refund directly into an account at any U.S. bank or other financial institution.
Respondents: Businesses and other for-profit institutions.
Estimated Total Burden Hours: 348,600 hours.

OMB Number: 1545–1407.
Type of Review: Extension.
Title: Consent To Extend the Time To Assess the Branch Profits Tax Under Regulations Sections 1.884–2(a) and (c).
Form: 8848.
Description: Form 8848 is used by foreign corporations that have (a) completely terminated all of their U.S. trade or business within the meaning of Temporary Regulations section 1.884–2T(a) during the tax year or (b) transferred their U.S. assets to a domestic corporation in a transaction described in Code section 381(a), if the foreign corporation was engaged in a U.S. trade or business at that time.
Respondents: Businesses and other for-profit institutions.
Estimated Total Burden Hours: 22,500 hours.

OMB Number: 1545–1922.
Type of Review: Extension.
Title: Survey Questionnaire.
Form: 12884.
Description: Form 12884 is used to collect statistical information regarding advertising sources and RNO data.
Respondents: Individuals or households.
Estimated Total Burden Hours: 2,757 hours.

OMB Number: 1545–1776.
Type of Review: Extension.
Title: U.S. Income Tax Return for Electing Alaska Native Settlement Trusts.
Form: 1041–N.
Description: An Alaska Native Settlement Trust (ANST) may elect under section 646 to have the special income tax treatment of that section apply to the trust and its beneficiaries.

This one-time election is made by filing Form 1041–N and the form is used by the ANST to report its income, etc., and to compute and pay any income tax. Form 1041–N is also used for the special information reporting requirements that apply to ANSTs.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 680 hours.

OMB Number: 1545–1767.

Type of Review: Extension.

Title: REG–107644–98 (Final) Dollar-Value LIFO Regulations; Inventory Price Index Computation Method.

Description: The primary reason for obtaining this information is to ensure compliance by taxpayers electing to use both the LIFO inventory method and the IPIC method of accounting for their dollar-value inventory pools. Most respondents will be manufacturers, wholesalers, and retailers of tangible personal property.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1768.

Type of Review: Extension.

Title: Revenue Procedure 2003–84, Optional Election to Make Monthly Sec. 706 Allocations.

Description: This revenue procedure allows certain partnerships with money market fund partners to make an optional election to close the partnership's books on a monthly basis with respect to the money market fund partners.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 500 hours.

OMB Number: 1545–1204.

Type of Review: Revision.

Title: Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition.

Form: 8823.

Description: Form 8823 is used by housing agencies to report noncompliance with the low-income housing provisions of Code section 42.

Respondents: State, local, or tribal governments.

Estimated Total Burden Hours: 372,200 hours.

OMB Number: 1545–1783.

Type of Review: Extension.

Title: TD 8989 (final) Guidance Necessary to Facilitate Electronic Tax Administration.

Description: The regulations provide a regulatory statement of IRS authority to prescribe what return information or documentation must be filed with a return, statement or other document required to be made under any provision of the internal revenue laws or regulations. In addition, the regulations eliminate regulatory impediments to electronic filing of Form 1040.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1 hours.

OMB Number: 1545–0256.

Type of Review: Extension.

Title: Supporting Statement to Correct Information (Form 941c); Planilla Para La Correccion de Informacion (Form 941cPR).

Form: 941C.

Description: This form is used by employers to correct previously reported FICA or income tax data. It may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund, credit, or adjustment of FICA or income tax.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 9,442,616 hours.

OMB Number: 1545–1493.

Type of Review: Extension.

Title: PS–7–89 (Final) Treatment of Gain From the Disposition of Interest in Certain Natural Resource Recapture Property by S Corporations and Their Shareholders.

Description: The regulation prescribes rules under section 1254 relating to the treatment by S corporations and their shareholders of gain from the disposition of natural resource recapture property and from the sale or exchange of S corporation stock. Shareholders that sell or exchange stock may submit a statement to rebut presumption of gain treatment.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,000 hours.

OMB Number: 1545–1646.

Type of Review: Extension.

Title: REG–209060–86 Final, Return Requirement for United States Persons who acquire or dispose of an interest in a foreign partnership, or whose proportional interest in a foreign partnership changes.

Description: Section 6046A requires U.S. persons to provide certain information with respect to the acquisition or disposition of a 10-percent change in ownership of a foreign partnership. This regulation provides reporting rules to identify U.S. persons with respect to these interests.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1920.

Type of Review: Revision.

Title: Notice Regarding Repayment of a Buyout Prior to Re-employment with the Federal Government.

Form: 1311.

Description: Form 12311 is used to identify former Federal Employees who received a buyout within the past 5 years and are requesting re-employment.

Respondents: Individuals or households.

Estimated Total Burden Hours: 2,757 hours.

OMB Number: 1545–1926.

Type of Review: Extension.

Title: Notice 2005–10, Domestic Reinvestment Plans and Other Guidance under Section 965 (NOT–102132–05).

Description: This document provides guidance under new section 965 enacted by the American Jobs Creation Act of 2004 (Pub. L. 108–357). In general, and subject to limitations and conditions, section 965 (a) provides that a corporation that is a U.S. shareholder of a controlled foreign corporation (CFC) may elect, for one taxable year, an 85 percent dividends received deduction (DRD) with respect to certain cash dividends it receives from its CFC's. Section 965(f) provides that taxpayers may elect the application of section 965 for either the taxpayer's last taxable year which begins before October 22, 2004, or the taxpayer's first taxable year to which the taxpayer intends to elect section 965 to apply prior to the issuance of Form 8895, the election must be made on a statement that is attached to its timely-filed tax return (including extensions) for such taxable year. In addition, because the taxpayer must establish to the satisfaction of the Commissioner that it has satisfied the conditions to take the DRD, the taxpayer is required under this guidance to report specified information and provide specified documentation.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 3,750,000 hours.

OMB Number: 1545–1924.

Type of Review: Extension.

Title: Biodiesel Fuels Credit.

Forms: 8864.

Description: IRC section 40A provides a credit for biodiesel or qualified biodiesel mixtures. IRC section 38(b)(17) allows a nonrefundable income tax credit for businesses that sell or use biodiesel. Form 8864 is used to figure the credits.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 310 hours.

OMB Number: 1545–1759.

Type of Review: Extension.

Title: Amended Quarterly Federal Excise Tax Return.

Form: 720X.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all product to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 152,460 hours.

OMB Number: 1545–1658.

Type of Review: Extension.

Title: REG–107069–97 (Final) Purchase Price Allocations in Deemed Actual Asset Acquisitions.

Description: Section 338 of the Internal Revenue Code provides rules under which a qualifying stock acquisition is treated as an asset acquisition (as ''deemed asset acquisition'') when an appropriate election is made. Section 1060 provides rules for the allocation of consideration when a trade or business is transferred. The collection of information is necessary to make the election, to calculate and collect the appropriate amount of tax liability when a qualifying stock acquisition is made, to determine the person liable for such tax and to determine the bases of assets acquired in the deemed asset acquisition.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 25 hours.

OMB Number: 1545–1435.

Type of Review: Extension.

Title: TD 8706 (Final) Electronic Filing of Form W–4.

Description: Information is required by the Internal Revenue Service to verify compliance with section 31.3402(f)(5)–1, which authorizes employers to establish electronic systems for use by employees in filing their withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 40,000 hours.

OMB Number: 1545–1649.

Type of Review: Extension.

Title: Rev. Proc. 99–21 Disability Suspension.

Description: The information is needed to establish a claim that a taxpayer was financially disabled for purposes of section 6511(h) of the Internal Revenue Code (which was added by section 3203 of the Internal Revenue Service Restructuring and Reform Act of 1998). Under section 6511(h), the statute of limitations on claims for credit or refund is suspended for any period of an individual taxpayer's life during which the taxpayer is unable to manage his or her financial affairs because of a medically determinable mental or physical impairment, if the impairment can be expected to result in death, or has lasted (or can be expected to last) for a continuous period of not less than 12 months. Section 6511(h)(2)(A) requires that proof of the taxpayer's financial disability be furnished to the Internal Revenue Service.

Respondents: Individuals or households.

Estimated Total Burden Hours: 24,100 hours.

OMB Number: 1545–1100.

Type of Review: Extension.

Title: REG–209106–89 (formerly EE–84–89)(NPRM) Changes With Respect to Prizes and Awards and Employee Achievement Awards.

Form: 8848.

Description: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1,275 hours.

OMB Number: 1545–1638.

Type of Review: Extension.

Title: Small Business Tax Product Order Blank For IRS Designated Partners.

Form: 12196.

Description: Form 12196 is to be used by small business outlets to order IRS tax forms and publications. The form can be faxed directly to the IRS Area Distribution Center for order fulfillment, packaging and mailing.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 42 hours.

OMB Number: 1545–1773.

Type of Review: Extension.

Title: Revenue Procedure 2002–23, Taxation of Canadian Retirement Plans Under U.S.—Canada Income Tax Treaty.

Description: This Revenue Procedure provides guidance for the application by U.S. citizens and residents of the U.S.—Canada Income Tax Treaty, as amended by the 1995 protocol, in order to defer U.S. Income taxes on income accrued in certain Canadian retirement plans.

Respondents: Individuals or households.

Estimated Total Burden Hours: 10,000 hours.

OMB Number: 1545–0003.

Type of Review: Extension.

Title: SS–4, Application for Employer Identification Number; SS–4PR, Solicitud de Numero de Identificacion Patronal (EIN).

Form: SS–4.

Description: Taxpayers required to have an identification number for use on any return, statement, or other document must prepare and file Form SS–4 of Form SS–4PR (Puerto Rico only) to obtain a number. The information is used by the IRS and the SSA in tax administration and by the Bureau of the Census for business statistics.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 15,941,913 hours.

OMB Number: 1545–1486.

Type of Review: Extension.

Title: REG–209793–95 (Final) Simplification of Entity Classification Rules.

Description: These rules allow certain unincorporated business organizations to elect to be treated as corporations or partnerships for federal tax purposes. The information collected on the election will be used to verify the classification of electing organizations.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1919.

Type of Review: Extension.

Title: Prior Government Service Information.

Form: 12854.

Description: Form 12854 is used to record prior government service, annuitant information, and advice on probationary periods.

Respondents: Individuals or households.

Estimated Total Burden Hours: 6,203 hours.

OMB Number: 1545–0152.

Type of Review: Revision.

Title: Application for Change in Accounting Method.

Form: 3115.

Description: Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.

Respondents: Individuals or households.

Estimated Total Burden Hours: 929,066 hours.

OMB Number: 1545–0024.

Type of Review: Revision.

Title: Claim for Refund and Request for Abatement.

Form: 843.

Description: IRC section 6402, 6404, and sections 301.6404–2, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain action by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

Respondents: Individuals or households.

Estimated Total Burden Hours: 850,980 hours.

OMB Number: 1545–0284.

Type of Review: Extension.

Title: Application for Determination of Employee Stock Ownership Plan.

Form: 5309.

Description: Form 5309 is used in conjunction with Form 5300 or Form 5303 when applying for a determination letter as to a deferred compensation plan's qualification status under section 409 or 4975(e)(7) of the Internal Revenue Code. The information is used to determine whether the plan qualifies.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 5,300 hours.

OMB Number: 1545–1491.

Type of Review: Extension.

Title: REG–209798–95 (Final) Amortizable Bond Premium.

Description: The information requested is necessary for the Service to determine whether a holder of a bond has elected to amortize bond premium and to determine whether an issuer or a holder has changed its method of accounting for premium.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 7,500 hours.

OMB Number: 1545–1641.

Type of Review: Extension.

Title: Rev. Proc. 99–17 Mark to Market Election for Commodities Dealers and Securities and Commodities Traders.

Description: The revenue procedure prescribes the time and manner for dealers in commodities and traders in securities or commodities to elect to use the mark-to-market method of accounting under Sec. 475(e) or (f) of the Internal Revenue Code. The collections of information in sections 5 and 6 of this revenue procedure are required by the IRS in order to facilitate monitoring taxpayers changing accounting methods resulting from making the elections under Sec. 475(e) or (f).

Respondents: Individuals or households.

Estimated Total Burden Hours: 500 hours.

OMB Number: 1545–1581.

Type of Review: Extension.

Title: Continuation Coverage Requirements Applicable to Group Health Plans—Final (REG–209485–86).

Description: The statute and the regulations require group health plans to provide notices to individuals who are entitled to elect COBRA continuation coverage of their election rights. Individuals who wish to obtain the benefits provided under the statute are required to provide plans notices in the cases of divorce from the covered employee, a dependent child's ceasing to be a dependent under the terms of the plan, and disability. Most plans will require that elections of COBRA continuation coverage be made in writing. In cases where qualified beneficiaries are short by an insignificant amount in a payment made to the plan, the regulations require the plan to notify the qualified beneficiary if the plan does not wish to treat the tendered payment as full payment. If a health care provider contacts a plan to confirm coverage of a qualified beneficiary, the regulations require that the plan disclose the qualified beneficiary's complete rights to coverage.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 404,640 hours.

OMB Number: 1545–1643.

Type of Review: Extension.

Title: REG–209484–87 (Final) Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans.

Description: This regulation provides guidance as to when amounts deferred under or paid from a nonqualified deferred compensation plan are taken into account as wages for purposes of the employment taxes imposed by the Federal Insurance Contributions Act (FICA). Section 31.3121(v)(2)–1(a)(2) requires that the material terms of a plan be set forth in writing.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 12,500 hours.

OMB Number: 1545–1409.

Type of Review: Extension.

Title: Application for Determination of Employee Stock Ownership Plan.

Form: 8842.

Description: Form 8842 is used by corporations (including S corporations), tax-exempt organizations subject to the unrelated business income tax, and private foundations to annually elect the use of an annualization period in section 6655(e)(2)(c)(i) or (ii) for purpose of figuring the corporation's estimated tax payments under the annualized income installment method.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 4,335 hours.

OMB Number: 1545–1765.

Type of Review: Extension.

Title: REG–119436–01 Final (TD 9171) New Markets Tax Credit.

Description: The regulations provide guidance for taxpayers claiming the new markets tax credit under section 45D of the Internal Revenue Code. The reporting requirements in the regulations require a qualified community development entity (CDE) to provide written notice to: (1) Any taxpayer who acquires an equity investment in the CDE at its original issue that the equity investment is a qualified equity investment entitling the taxpayer to claim the new markets tax credits; and (2) each holder of a qualified equity investment, including all prior holders of that investment that a recapture event has occurred. CDE's must comply with such reporting requirements to the Secretary as the Secretary may prescribe.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 210 hours.

OMB Number: 1545–0216.

Type of Review: Revision.

Title: International Boycott Report.

Form: 5713.

Description: Form 5713 and related Schedules A, B, and C are used by any entity that has operations in a ''boycotting'' country. If that entity cooperates with or participates in an international boycott it loses a portion of the foreign tax credit, or deferral of FSC and IC–DISC benefits. The IRS uses Form 5713 to determine if any of the above benefits should be lost. The information is also used as the basis for a report to the Congress.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 69,495 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E8–19809 Filed 8–26–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 20, 2008.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 26, 2008 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1946.

Type of Review: Extension (correction to notice published July 29, 2008, 73 FR 43976. Comments on this collection should be in before August 29, 2008).

Title: REG–102144–04 (Final) Dual Consolidated Losses.

Description: Section 1503(d) denies the use of the losses of one domestic corporation by another affiliated domestic corporation where the loss corporation is also subject to the income tax of a foreign country. This final regulation permits the domestic use of the loss if the loss has not been used in the foreign country provided a domestic use agreement is filed with the income tax return of the domestic affiliated group or domestic owner agreeing to recapture the loss into income upon a future foreign use of the loss.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 2,740 hours.

OMB Number: 1545–1375.

Type of Review: Extension.

Title: IA–5–92 (Final) Carryover of Passive Activity Losses and Credits and At Risk Losses to Bankruptcy Estates of Individuals.

Description: These regulations provide for a joint election to have the regulations apply to certain bankruptcy cases. In a chapter 7 case, the written consent of the trustee must be obtained. In chapter 11 case, the election must be in the reorganization plan or in a court order.

Respondents: Individuals or households.

Estimated Total Burden Hours: 100 hours.

OMB Number: 1545–0922.

Type of Review: Extension.

Title: Form 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs); Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

Forms: 8329, 8330.

Description: Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to report on mortgage credit certificates (MCCs) authorized under IRC Section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 73,720 hours.

OMB Number: 1545–1655.

Type of Review: Extension.

Title: REG–121946–98 (Final) Private Foundation Disclosure Rules.

Description: The collections of information in section 301.6104(d)-1, 301.6104 (d)-2 and 301.6104(d)-3 are necessary so that private foundations can make copies of their applications for tax-exemption and annual information returns available to the public.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 32,596 hours.

OMB Number: 1545–1633.

Type of Review: Extension.

Title: REG–209121–89 (Final) Certain Asset Transfers to a Tax-Exempt Entity.

Description: The written representation requested from a tax-exempt entity in regulations section 1.337(d)-4(b)(1)(A) concerns its plans to use assets received from a taxable corporation in a taxable unrelated trade or business. The taxable corporation is not taxable on gain if the assets are used in a taxable unrelated trade or business.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 125 hours.

OMB Number: 1545–1485.

Type of Review: Extension.

Title: PS–4–96 (Final) Sale of Residence From Qualified Personal Residence Trust.

Description: Internal Revenue Code section 2702(a)(3) provides special favorable valuation rules for valuing the gift of a personal residence trust. Regulation section 25.2702–5(a)(2) provides that if the trust fails to comply with the requirements contained in the regulations, the trust will be treated as complying if a statement is attached to the gift tax return reporting the gift stating that a proceeding has been commenced to reform the instrument to comply with the requirements of the regulations.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 625 hours.

OMB Number: 1545–0723.

Type of Review: Extension.

Title: LR–115–72 (Final) Manufacturers Excise Taxes and Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

Description: Chapters 31 & 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Sections 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 475,000 hours.

OMB Number: 1545–1496.

Type of Review: Extension.

Title: REG–209673–93 Mark to Market for Dealers in Securities(TD 8700 (final)).

Description: Under section 1.475(b)–4, the information required to be recorded is required by the IRS to determine whether exemption from mark-to-market treatment is properly claimed, and will be used to make that determination upon audit of taxpayer's books and records. Also, under section 1.475(c)–1(a)(3)(iii), the information is necessary for the Service to determine whether a consolidated group has elected to disregard inter-member transactions in determining a member's status as a dealer in securities.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 2,950 hours.

OMB Number: 1545–1910.

Type of Review: Extension.

Title: Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (Form 8858); and Transactions Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer.

Form: 8858.

Description: Form 8858 and Schedule M (Form 8858) are used by certain U.S. persons that own a foreign disregarded entity (FDE) directly or, in certain circumstances, indirectly or constructively.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1,832,500 hours.

OMB Number: 1545–1792.

Type of Review: Extension.

Title: REG–164754–01 (FINAL) Split-Dollar Life Insurance Arrangements.

Description: The proposed regulations provide guidance for loans made pursuant to a split-dollar life insurance arrangement. To obtain a particular treatment under the regulations for certain split-dollar loans, the parties to the loan must make a written representation, which must be kept as part of their books and records and a copy filed with their federal income tax returns. In addition, if a split-dollar loan provides for contingent payments, the lender must produce a projected payment schedule for the loan and give the borrower a copy of the schedule. This schedule is used by parties to compute their interest accruals and any imputed transfers for tax purposes.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 32,500 hours.

OMB Number: 1545–1139.

Type of Review: Extension.

Title: PS–264–82 (Final) Adjustments to Basis of Stock and Indebtedness to Shareholders of S Corporations and Treatment of Distributions by S Corporations to Shareholders; REG–144859–04—Section 1367.

Description: The regulations provide the procedures and the statements to be filed by S corporations for making the election provided under section 1368, and by shareholders who choose to reorder items that decrease their basis. Statements required to be filled will be used to verify that taxpayers are complying with the requirements imposed by Congress.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 450 hours.

OMB Number: 1545–1381.

Type of Review: Extension.

Title: CO–49–88 (Final) Limitations on Corporate Net Operating Loss.

Description: This regulation provides rules for the allocation of a loss corporation's taxable income or net operating loss between the periods before and after an ownership change under section 382 of the Code, including an election to make the allocation based on a closing of the books as of the change date.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 200 hours.

OMB Number: 1545–1763.

Type of Review: Revision.

Title: Direct Deposit of Refund of $1 Million or more.

Form: 8302.

Description: This form is used to request a deposit of a tax refund of $1 million or more directly into an account at any U.S. bank or other financial institution.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,088 hours.

OMB Number: 1545–0879.

Type of Review: Extension.

Title: IA–195–78 (Final) Certain Returned Magazines, Paperbacks or Records

Description: The regulations provide rules relating to an exclusion from gross income for certain returned merchandise. The regulations provide that in addition to physical return of the merchandise, a written statement listing certain information may constitute evidence of the return. Taxpayers who receive physical evidence of the return may, in lieu of retaining physical evidence, retain documentary evidence of the return. Taxpayers in the trade or business of selling magazines, paperbacks, or records, who elect to use a certain method of accounting, are affected.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 8,125 hours.

OMB Number: 1545–1921.

Type of Review: Extension.

Title: Continuation Sheet for Item #16 (Additional Information) OF–306, Declaration for Federal Employment.

Form: 12114.

Description: Form 12114 is used as a continuation to the OF–306 to provide additional space for capturing additional information.

Respondents: Individuals or households.

Estimated Total Burden Hours: 6,203 hours.

OMB Number: 1545–0094.

Type of Review: Revision.

Title: U.S. Information Return-Trust Accumulation of Charitable Amounts.

Form: 1041–A.

Description: Form 1041–A is used to report the information required in 26 U.S.C. 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify that amounts for which a charitable deduction was allowed are used for charitable purposes.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 4,396,854 hours.

OMB Number: 1545–1918.

Type of Review: Extension.

Title: Supplement to OF–612, Optional Application for Federal Employment.

Form: 12885.

Description: Form 12885 is used as a supplement to the OF–612 to provide additional space for capturing work history.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 12,406 hours.

Clearance Officer:

Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E8–19815 Filed 8–26–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0061]

Proposed Information Collection (Request for Supplies (Chapter 31–Vocational Rehabilitation)); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of

Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine whether supplies requested for a veteran's rehabilitation program are necessary.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 27, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0061'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Supplies (Chapter 31–Vocational Rehabilitation), VA Form 28–1905m.

OMB Control Number: 2900–0061.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 28–1905m is used to request supplies for veterans in rehabilitation programs. The official at the facility providing rehabilitation services to the veteran completes the form and certifies that the veteran needs the supplies for his or her program and that the veteran does not have the requested item in his or her possession and the veteran certifies that he or she is not in possession of any of the supplies listed on the form.

Affected Public: Not-for-profit institutions, individuals or households, business or other for-profit, and farms.

Estimated Annual Burden: 12,000 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 12,000.

Dated: August 21, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–19900 Filed 8–26–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0580]

Proposed Information Collection (Request for Transportation Expense Reimbursement (38 CFR 21.8370)) Activity; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine children with spina bifida eligibility for reimbursement of transportation expenses.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 27, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0580'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Transportation Expense Reimbursement (38 CFR 21.8370).

OMB Control Number: 2900–0580.

Type of Review: Extension of a currently approved collection.

Abstract: Children of Vietnam veterans born with spina bifida and receiving vocational training or seeking employment may request reimbursement for transportation expenses. To be eligible, the child must provide supportive documentation of actual expenses incurred for the travel. VA uses the information collected to determine if the child is unable to pursue a vocational training or employment without travel assistance.

Affected Public: Individuals or households.

Estimated Annual Burden: 63 hours.

Estimated Average Burden per Respondent: 6 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 50.

Estimated Total Annual Responses: 600.

Dated: August 21, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst Records Management Service.

[FR Doc. E8–19901 Filed 8–26–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (22–0830)]

Agency Information Collection (Agreement for Release of VA Education Information to Third Party) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 26, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–New (22–0830)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–New (22–0830).''

SUPPLEMENTARY INFORMATION: Title: Agreement for Release of VA Education Information to Third Party, VA Form 22–0830.

OMB Control Number: 2900–New (22–0830).

Type of Review: New collection.

Abstract: Claimants on active duty and overseas complete VA Form 22–0830 to authorize VA to release his or her education benefits information to a third party calling on their behalf. Without the claimant's written consent VA cannot divulge any information, such as the status of a claim, rates of payment or date of payments to individuals calling on behalf of the claimant.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 3, 2008, at pages 31737–31738.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,000 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 132,000.

Dated: August 21, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–19902 Filed 8–26–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0710]

Agency Information Collection Activities (VSO Access to VHA Electronic Health Records) Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 26, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0710'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@va.gov*. Please refer to ''OMB Control No. 2900–0710.''

SUPPLEMENTARY INFORMATION:

Title: VSO Access to VHA Electronic Health Records, VA Form 10–0400.

OMB Control Number: 2900–0710.

Type of Review: Extension of a currently approved collection.

Abstract: VSO's complete VA Form 10–0400 to request authorization to access VA VistA database. VA will use the data collected to provide VSO's who were granted power of attorney by veterans with medical information recorded in VHA electronic health records system, authorization to access medical information needed to process a veteran's compensation and pension claim.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 10, 2008 at page 32789.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 400 hours.

Estimated Average Burden per Respondent: 2 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 12,000.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–19903 Filed 8–26–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0399]

Agency Information Collection (Student Beneficiary Report—REPS (Restored Entitlement Program For Survivors)) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 26, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0399'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0399.''

SUPPLEMENTARY INFORMATION:

Title: Student Beneficiary Report—REPS (Restored Entitlement Program For Survivors), VA Forms 21–8938 and 21–8938–1.

OMB Control Number: 2900–0399.

Type of Review: Extension of a currently approved collection.

Abstract: Students between the ages of 18–23 who are receiving Restored Entitlement Program for Survivors (REPS) benefits based on schoolchild status complete VA Forms 21–8938 and 21–8938–1 to certify that he or she is enroll full-time in an approved school. REPS benefit is paid to children of veterans who died in service or who died as a result of service-connected disability incurred or aggravated prior to August 13, 1981. VA uses the data collected to determine the student's eligibility for continued REPS benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 3, 2008, at page 31738.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,767.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 5,300.

Dated: August 21, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–19904 Filed 8–26–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0104]

Agency Information Collection (Report of Accidental Injury in Support of Claim for Compensation or Pension) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 26, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0104'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0104.''

SUPPLEMENTARY INFORMATION:

Title: Report of Accidental Injury in Support of Claim for Compensation or Pension, VA Form 21–4176.

OMB Control Number: 2900–0104.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–4176 is used to determine a veteran's eligibility for disability benefits based on an accidental injury that he or she incurred while in the line of duty and by individuals who witness the accidental injury. VA uses the information collected to determine whether the injury was the result of a willful misconduct by the veteran.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 3, 2008, at pages 31738—31739.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,204.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,408.

Dated: August 21, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–19905 Filed 8–26–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
August 27, 2008

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Early Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2008–0032; 91200–1231–9BPP–L2]

RIN 1018–AV62

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks from which the States, Puerto Rico, and the Virgin Islands may select season dates, limits, and other options for the 2008–09 migratory bird hunting seasons. Early seasons are those that generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. The effect of this final rule is to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations.

DATES: This rule takes effect on August 27, 2008.

ADDRESSES: States and Territories should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, ms MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect comments during normal business hours at the Service's office in room 4107, 4501 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION

Regulations Schedule for 2008

On May 28, 2008, we published in the **Federal Register** (73 FR 30712) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2008–09 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the May 28 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings.

Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

On June 18, 2008, we published in the **Federal Register** (73 FR 34692) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 18 supplement also provided detailed information on the 2008–09 regulatory schedule and announced the SRC and Flyway Council meetings.

On June 25 and 26, 2008, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2008–09 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2008–09 regular waterfowl seasons. On July 24, 2008, we published in the **Federal Register** (73 FR 43290) a third document specifically dealing with the proposed frameworks for early-season regulations. We will publish the proposed frameworks for late-season regulations (primarily hunting seasons that start after October 1 and most waterfowl seasons not already established) in a late August **Federal Register**.

This document is the fourth in a series of proposed, supplemental, and final rulemaking documents. It establishes final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 2008–09 season. These selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.107, and § 20.109 of title 50 CFR part 20.

Review of Public Comments

The preliminary proposed rulemaking, which appeared in the May 28 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. We have considered all pertinent comments received. Comments are summarized below and numbered in the order used in the May 28 **Federal Register**. We have included only the numbered items pertaining to early-season issues for which we received comments. Consequently, the issues do not follow in successive numerical or alphabetical order. We received recommendations from all Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the Councils' annual review of the frameworks, we assume Council support for continuation of last year's frameworks for items for which we received no recommendation. Council recommendations for changes are summarized below.

General

Written Comments: An individual commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and the Flyway Council process.

Service Response: Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, we believe that the Flyway-Council system of migratory bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy; (B) Regulatory Alternatives, including specification of framework dates, season lengths, and bag limits; (C) Zones and Split Seasons; and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussions, and only those

containing substantial recommendations are discussed below.

D. Special Seasons/Species Management

i. September Teal Seasons

Utilizing the criteria developed for the teal season harvest strategy, this year's estimate of 6.6 million blue-winged teal from the traditional survey area indicates that a 16-day September teal season in the Central and Mississippi Flyway and a 9-day September teal season in the Atlantic Flyway is appropriate in 2008.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended allowing a 10-day experimental extension of the September Resident Canada goose season in Delaware from September 16 to September 25 consistent with September Canada goose seasons in Atlantic Population (AP) zones in the adjacent States of Pennsylvania and New Jersey and other States in the Atlantic Flyway. They requested that this experimental season be permitted for a 3-year period, at which time an analysis of direct band recoveries will be conducted to determine if the harvest of AP Canada geese exceeds 10 percent of the overall goose harvest during Delaware's 10-day extension of the early season. This extended season will not incorporate the ''expanded hunting methods'' and would be implemented in 2008.

The Pacific Flyway Council recommended allowing Wyoming to modify its current framework that allows 4 geese per season to a 4-bird possession limit.

Service Response: We support the Atlantic Flyway Council's request to allow a 10-day extension of Delaware's September Canada goose season on an experimental basis for 3 years. We note that Delaware's evaluation plan meets the criteria currently set forth by the Service for experimental Canada goose seasons. Further, we would also note that we plan to review the efficacy of these criteria in the near future, but we do not believe that such a review will have any impact on this proposal.

We also support the Pacific Flyway Council's recommendation regarding Wyoming and note that this requested possession limit change falls within previously established frameworks for September Canada goose seasons.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2008.

Service Response: We concur. As we stated last year (72 FR 40194), we agree with the objective to increase harvest pressure on resident Canada geese in the Mississippi Flyway and will continue to consider the opening dates in both States as exceptions to the general Flyway opening date, to be reconsidered annually.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended using the 2008 Rocky Mountain Population (RMP) sandhill crane harvest allocation of 1,633 birds as proposed in the allocation formula using the 3-year running average. They further recommended that a new RMP greater sandhill crane hunt area be established in Uinta County, Wyoming.

The Pacific Flyway Council recommended modifying Wyoming's RMP hunt areas by: (1) Expanding the hunt area in Lincoln County to include the Hams Fork drainage, and (2) expanding Area 6 in the Bighorn Basin to include all of Park, Bighorn, Hot Springs and Washakie Counties. The Council also recommended initiating a limited hunt for Lower Colorado River sandhill cranes in Arizona, with the goal of the hunt being a limited harvest of 6 cranes in January. To limit harvest, Arizona would issue permit tags to hunters and require mandatory checking of all harvested cranes. To limit disturbance of wintering cranes, Arizona would restrict the hunt to one 3-day period. Arizona would also coordinate with the National Wildlife Refuges where cranes occur.

Service Response: Last year the Pacific Flyway Council recommended, and we approved, the establishment of a limited hunt for the Lower Colorado River Valley Population (LCRVP) of sandhill cranes in Arizona (72 FR 49622). However, the population inventory on which the LCRVP hunt plan is based was not completed last year. Thus, the Arizona Game and Fish Department chose to not conduct the hunt last year. We continue to support the continuation of the 3-year experimental framework for this hunt conditional on successful monitoring being conducted as called for in the Flyway hunt plan for this population.

Our final environmental assessment (FEA) on this new hunt can be obtained by writing Robert Trost, Pacific Flyway Representative, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 911 NE 11th Avenue, Portland, OR 97232–4181, or it may be viewed via the Service's home page at *http://www.fws.gov/migratorybirds/reports/reports.html* or at *http://www.regulations.gov.*

Regarding the establishment of a new RMP greater sandhill crane hunt area in Uinta County, Wyoming, and the Pacific Flyway Council's recommended modification of several of Wyoming's RMP hunt areas, we agree. All of these areas are within existing RMP hunt plans and RMP harvest is controlled by the RMP crane harvest allocation identified in the RMP hunt plan.

16. Mourning Doves

Council Recommendations: The Atlantic Flyway Council and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that States within the Eastern Management Unit should be offered a 70-day season and 15-bird daily bag limit for the 2008–09 mourning dove hunting season, and the dichotomous hunting season structure should be eliminated.

The Atlantic Flyway Council, the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Central Flyway Council submitted interim mourning dove harvest management strategies for the Eastern Management Unit and the Central Management Unit for implementation in 2009.

The Pacific Flyway Council submitted an interim mourning dove harvest management strategy for the Western Management Unit for implementation in 2009.

Service Response: We concur with the recommendation to eliminate dichotomous bag limit choice and standardize the dove hunting framework to a 70-day season with a 15-bird daily bag limit in the Eastern Management Unit beginning with the 2008–09 season. Our assessment indicates that the increase in harvest will be minimal. We agree that this will be a simplification in the regulations and facilitate future harvest evaluations.

We also accept and endorse the interim harvest strategies for the Central, Eastern, and Western Management Units. The interim mourning dove harvest strategies are a step towards implementing the Mourning Dove National Strategic Harvest Plan (Plan) that was approved by all four Flyway Councils in 2003. The Plan represents a new, more informed means of decision-making for dove harvest management besides relying solely on traditional roadside

counts of mourning doves as indicators of population trend. However, recognizing that a more comprehensive, national approach would take time to develop, we requested the development of interim harvest strategies, by management unit, until the elements of the Plan can be fully implemented. In 2004, each management unit submitted its respective strategy, but the strategies used different datasets and different approaches or methods. After initial submittal and review in 2006, we requested that the strategies be revised, using similar, existing datasets among the management units along with similar decision-making criteria. In January 2008, we recommended that, following approval by the respective Flyway Councils in March, they be submitted in 2008 for endorsement by the Service with implementation for the 2009–10 hunting season.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended maintaining status quo in the Alaska early-season framework, except for increasing the daily bag limit for canvasbacks to 2 per day with 6 in possession, and increasing the daily bag limit for brant to 3 per day with 6 in possession.

Service Response: We concur with the Pacific Flyway Council's recommendation for an increase in the daily bag and possession limit for brant. However, we do not support increasing the canvasback daily bag limit to 2 birds per day for the 2008–09 season. Our proposal is based on two factors: (1) There is no biological data currently available to justify a 2-bird daily bag limit for canvasbacks for the 2008–09 season, and (2) we note that prior to this year, the canvasback strategy had no provisions for a daily bag limit greater than one bird. In recognition of our change to the canvasback harvest strategy (see July 24 **Federal Register**, 73 FR 43290), we request that the Pacific Flyway, in conjunction with Alaska, develop a recommendation on how to effectively incorporate Alaska into any future regulations when 2-bird daily bags are offered during the late season regulatory process.

20. Puerto Rico

Council Recommendations: The Atlantic Flyway Council recommended that Puerto Rico be permitted to adopt an experimental 20-bird bag limit for doves in the aggregate for the next three hunting seasons, 2008–2010. Legally hunted dove species in Puerto Rico are the Zenaida dove, the white-winged dove, and the mourning dove. They also recommended that the experimental 20-bird aggregate bag limit should include no more than 10 Zenaida doves and no more than 3 mourning doves.

Service Response: We concur.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We have prepared a scoping report summarizing the scoping comments and scoping meetings. The report is available by either writing to the address indicated under **FOR FURTHER INFORMATION CONTACT** or by viewing on our Web site at *http://www.fws.gov/migratorybirds*.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''ensure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *http://www.fws.gov/*

migratorybirds/reports/reports.html or at *http://www.regulations.gov*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 1/31/2010). A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

In promulgating this rule, we have determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship with Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the May 28 proposed rule we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2008–09 migratory bird hunting season. The resulting proposals will be contained in a separate proposed rule. By virtue of these actions, we have consulted with all the Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or tribe may be more restrictive than the Federal frameworks. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication. Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final

rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2008–09 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2008–09 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: August 14, 2008.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2008–09 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks, which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select hunting seasons for certain migratory game birds between September 1, 2008, and March 10, 2009.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Definitions

Dark geese: Canada geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross' geese.

Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, Nebraska (part), New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive hunting days in the Atlantic Flyway and 16 consecutive days in the Mississippi and Central Flyways. The daily bag limit is 4 teal.

Shooting Hours

Atlantic Flyway—One-half hour before sunrise to sunset except in Maryland, where the hours are from sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20. The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Days

Outside Dates: States may select two consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, mergansers, coots, moorhens, and gallinules and

would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Long-tailed Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 31.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate, of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland and Delaware. Seasons not to exceed 25 days during September 1–25 may be selected for the Montezuma Region of New York and the Lake Champlain Region of New York and Vermont. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada geese.

Experimental Seasons

Canada goose seasons of up to 10 days during September 16–25 may be selected in Delaware. The daily bag limit may not exceed 15 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during any general season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10, and in Minnesota (except in the Northwest Goose Zone), where a season of up to 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

A Canada goose season of up to 10 consecutive days during September 1–10 may be selected by Michigan for Huron, Saginaw, and Tuscola Counties, except that the Shiawassee National Wildlife Refuge, Shiawassee River State Game Area Refuge, and the Fish Point Wildlife Area Refuge will remain closed. The daily bag limit may not exceed 5 Canada geese.

Experimental Seasons

Canada goose seasons of up to 7 days during September 16–22 may be selected in the Northwest Goose Zone in Minnesota. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Central Flyway

General Seasons

In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada goose seasons of up to 30 days during September 1–30 may be selected. In Colorado, New Mexico, North Dakota, Montana, and Wyoming, Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Pacific Flyway

General Seasons

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Colorado may select a 9-day season during the period of September 1–15. The daily bag limit is 3.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone in Oregon, a 15-day season may be selected during the period September 1–20. Daily bag limits may not exceed 5 Canada geese.

Idaho may select a 7-day season during the period September 1–15. The daily bag limit is 2 and the possession limit is 4.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 5 Canada geese.

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.

2. A daily bag limit of 2, with season and possession limits of 4, will apply to the special season.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 16 in Wisconsin and Michigan. Season lengths, bag and possession limits, and other provisions will be established during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of North Dakota (Area 2) and Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit and/or, in those States where a Federal sandhill crane permit is not issued, a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

1. In Utah, 100 percent of the harvest will be assigned to the RMP quota;

2. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals;

3. In Idaho, 100 percent of the harvest will be assigned to the RMP quota; and

4. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Special Seasons in the Pacific Flyway

Arizona may select a season for hunting sandhill cranes within the range of the Lower Colorado River Population (LCR) of sandhill cranes, subject to the following conditions:

Outside Dates: Between January 1 and January 31.

Hunting Seasons: The season may not exceed 3 days.

Bag limits: Not to exceed 1 daily and 1 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: The season is experimental. Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Pacific Flyway Council.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and the last Sunday in January (January 25) in the Atlantic, Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks, and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and the last Sunday in January (January 25) on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits:

Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the 2 species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 20) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Eastern Region and 45 days in the Central Region. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2 band-tailed pigeons.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive

days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12 mourning and white-winged doves in the aggregate, or not more than 60 days with a bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods.

Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Daily bag limits are aggregate bag limits with mourning, white-winged, and white-tipped doves (see white-winged dove frameworks for specific daily bag limit restrictions).

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits:

Idaho, Oregon, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves.

Utah—Not more than 30 consecutive days with a daily bag limit that may not exceed 10 mourning doves and white-winged doves in the aggregate.

Nevada—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves, except in Clark and Nye Counties, where the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

Arizona and California—Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is 10 mourning doves. In California, the daily bag limit is 10 mourning doves, except in Imperial, Riverside, and San Bernardino Counties, where the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-winged and White-tipped Doves

Hunting Seasons and Daily Bag Limits:

Except as shown below, seasons must be concurrent with mourning dove seasons.

Eastern Management Unit: the daily bag limit may not exceed 15 mourning and white-winged doves in the aggregate.

Central Management Unit:

In Texas, the daily bag limit may not exceed 12 mourning, white-winged, and white-tipped doves (15 under the alternative) in the aggregate, of which no more than 2 may be white-tipped doves. In addition, Texas also may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 12 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 4 may be mourning doves and 2 may be white-tipped doves.

In the remainder of the Central Management Unit, the daily bag limit may not exceed 12 (15 under the alternative) mourning and white-winged doves in the aggregate.

Western Management Unit:

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Utah, the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In the remainder of the Western Management Unit, the season is closed.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of 5 zones. The season may be split without penalty in the Kodiak Zone.

The seasons in each zone must be concurrent.

Closures: The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone, they are 8 and 24. The basic limits may include no more than 1 canvasback daily and 3 in possession and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16.

2. On Middleton Island in Unit 6, a special, permit-only Canada goose season may be offered. No more than 10 permits can be issued. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

3. In Units 9, 10, 17 and 18, dark goose limits are 6 per day, 12 in possession; however, no more than 2

may be Canada geese in Units 9(E) and 18; and no more than 4 may be Canada geese in Units 9(A–C), 10 (Unimak Island portion), and 17.

Brant—A daily bag limit of 3 and a possession limit of 6.

Common snipe—A daily bag limit of 8.

Sandhill cranes—Bag and possession limits of 2 and 4, respectively, in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the Northern Zone. In the remainder of the Northern Zone (outside Unit 17), bag and possession limits of 3 and 6, respectively.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.
2. All season framework dates are September 1–October 31.
3. In Game Management Unit (GMU) 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.
4. In Game Management Unit (GMU) 18, no more than 500 permits may be issued during the operational season. Up to 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.
5. In GMU 22, no more than 300 permits may be issued during the operational season. Each permittee may be authorized to take up to 3 tundra swan per permit. No more than 1 permit may be issued per hunter per season.
6. In GMU 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 20 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits:

Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds must not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-Winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton,

Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Louisiana

North Zone—That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. 190 to Interstate Highway 12, east along Interstate 12 to Interstate Highway 10, then east along Interstate 10 to the Mississippi border.

South Zone—The remainder of the State.

Mississippi

North Zone—That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone—The remainder of Mississippi.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Oklahoma

North Zone—That portion of the State north of a line extending east from the Texas border along U.S. Highway 62 to Interstate 44, east along Oklahoma State Highway 7 to U.S. Highway 81, then south along U.S. Highway 81 to the Texas border at the Red River.

Southwest Zone—The remainder of Oklahoma.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas–Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to Interstate Highway 10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio, southeast on State Loop 1604 to Interstate Highway 35, southwest on Interstate Highway 35 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

South Zone—Remainder of the State.

Maryland

Eastern Unit—Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97 and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit—Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97 and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.–Elm St. bridge will be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the

Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington Counties; that portion of Bertie County north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor to the Hertford County line; and that portion of Northampton County that is north of U.S. 158 and east of NC 35.

Pennsylvania

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: That portion of Vermont west of the Lake Champlain Zone and eastward of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Arkansas

Early Canada Goose Area: Baxter, Benton, Boone, Carroll, Clark, Conway, Crawford, Faulkner, Franklin, Garland, Hempstead, Hot Springs, Howard, Johnson, Lafayette, Little River, Logan, Madison, Marion, Miller, Montgomery, Newton, Perry, Pike, Polk, Pope, Pulaski, Saline, Searcy, Sebastian, Sevier, Scott, Van Buren, Washington, and Yell Counties.

Illinois

Northeast Canada Goose Zone—Cook, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending west from the Indiana border along Interstate Highway 70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 156, west along Illinois Route 156 to A Road, north and west on A Road to Levee Road, north on Levee Road to the south shore of New Fountain Creek, west along the south shore of New Fountain Creek to the Mississippi River, and due west across the Mississippi River to the Missouri border.

South Zone: The remainder of Illinois.

Iowa

North Zone: That portion of the State north of U.S. Highway 20.

South Zone: The remainder of Iowa.

Cedar Rapids/Iowa City Goose Zone. Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; thence south and east along County Road E2W to Highway 920; thence north along Highway 920 to County Road E16; thence east along County Road E16 to County Road W58; thence south along County Road W58 to County Road E34; thence east along County Road E34 to Highway 13; thence south along Highway 13 to Highway 30; thence east along Highway 30 to Highway 1; thence south along Highway 1 to Morse Road in Johnson County; thence east along Morse Road to Wapsi Avenue; thence south along Wapsi Avenue to Lower West Branch Road; thence west along Lower West Branch Road to Taft Avenue; thence south along Taft Avenue to County Road F62; thence west along County Road F62 to Kansas Avenue; thence north along Kansas Avenue to Black Diamond Road; thence west on Black Diamond Road to Jasper Avenue; thence north along Jasper Avenue to Rohert Road; thence west along Rohert Road to Ivy Avenue; thence north along Ivy Avenue to 340th Street; thence west along 340th Street to Half Moon Avenue; thence north along Half Moon Avenue to Highway 6; thence west along Highway 6 to Echo Avenue; thence north along Echo Avenue to 250th Street; thence east on 250th Street to Green Castle Avenue; thence north along Green Castle Avenue to County Road F12; thence west along County Road F12 to County Road W30; thence north along County Road W30 to Highway 151; thence north along the Linn-Benton County line to the point of beginning.

Des Moines Goose Zone. Includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; thence south along R38 to Northwest 142nd Avenue; thence east along Northwest 142nd Avenue to Northeast 126th Avenue; thence east along Northeast 126th Avenue to Northeast 46th Street; thence south along Northeast 46th Street to Highway 931; thence east along Highway 931 to Northeast 80th Street; thence south along Northeast 80th Street to Southeast 6th Avenue; thence west along Southeast 6th Avenue to Highway 65; thence south and west along Highway 65 to Highway 69 in Warren County; thence south along Highway 69 to County Road G24; thence west along County Road G24 to Highway 28; thence southwest along Highway 28 to 43rd Avenue; thence north along 43rd Avenue to Ford Street; thence west along Ford Street to Filmore Street; thence west along Filmore Street to 10th Avenue; thence south along 10th Avenue to 155th Street in Madison County; thence west along 155th Street to Cumming Road; thence north along Cumming Road to Badger Creek Avenue; thence north along Badger Creek Avenue to County Road F90 in Dallas County; thence east along County Road F90 to County Road R22; thence north along County Road R22 to Highway 44; thence east along Highway 44 to County Road R30; thence north along County Road R30 to County Road F31; thence east along County Road F31 to Highway 17; thence north along Highway 17 to Highway 415 in Polk County; thence east along Highway 415 to Northwest 158th Avenue; thence east along Northwest 158th Avenue to the point of beginning.

Cedar Falls/Waterloo Goose Zone: Includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66

and V49 in Black Hawk County, thence south along County Road V49 to County Road D38, thence west along County Road D38 to State Highway 21, thence south along State Highway 21 to County Road D35, thence west along County Road D35 to Grundy Road, thence north along Grundy Road to County Road D19, thence west along County Road D19 to Butler Road, thence north along Butler Road to County Road C57, thence north and east along County Road C57 to U.S. Highway 63, thence south along U.S. Highway 63 to County Road C66, thence east along County Road C66 to the point of beginning.

Minnesota

Twin Cities Metropolitan Canada Goose Zone—

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities of Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Southeast Goose Zone—That part of the State within the following described boundaries: Beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Five Goose Zone—That portion of the State not included in the Twin Cities Metropolitan Canada Goose Zone, the Northwest Goose Zone, or the Southeast Goose Zone.

West Zone—That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

East Tennessee Zone—Anderson, Bledsoe, Bradley, Blount, Campbell, Carter, Claiborne, Clay, Cocke, Cumberland, DeKalb, Fentress, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B—The remainder of the State.

Central Flyway

Nebraska

September Canada Goose Unit—That part of Nebraska bounded by a line from the Nebraska-Iowa State line west on U.S. Highway 30 to U.S. Highway 81, then south on U.S. Highway 81 to NE Highway 64, then east on NE Highway 64 to NE Highway 15, then south on NE Highway 15 to NE Highway 41, then east on NE Highway 41 to NE Highway 50, then north on NE Highway 50 to NE Highway 2, then east on NE Highway 2 to the Nebraska-Iowa State line.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; thence north on ND Hwy 6 to I–94; thence west on I–94 to ND Hwy 49; thence north on ND Hwy 49 to ND Hwy 200; thence north on Mercer County Rd. 21 to the section line between sections 8 and 9 (T146N–R87W); thence north on that section line to the southern shoreline to Lake Sakakawea; thence east along the southern shoreline (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; thence south on U.S. Hwy 83 to ND Hwy 200; thence east on ND Hwy 200

to ND Hwy 41; thence south on ND Hwy 41 to U.S. Hwy 83; thence south on U.S. Hwy 83 to I–94; thence east on I–94 to U.S. Hwy 83; thence south on U.S. Hwy 83 to the South Dakota border; thence west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

South Dakota

Special Early Canada Goose Unit: Entire state of South Dakota *except* the counties of Bennett, Bon Home, Brule, Buffalo, Charles Mix, Custer east of SD HW 79 and south of French Creek, Dewey south of 212, Fall River east of SD HW 71 and U.S. HW 385, Gregory, Hughes, Hyde south of U.S. HW 14, Lyman, Perkins, Potter west of U.S. HW 83, Stanley, and Sully.

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont, and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, and Wasco Counties.

Washington

Area 1—Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone)—Clark County, except portions south of the Washougal River; Cowlitz County; and Wahkiakum County.

Area 2B (SW Quota Zone)—Pacific County.

Area 3—All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4—Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5—All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Ducks

Atlantic Flyway

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Maryland

Special Teal Season Area: Calvert, Caroline, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties and those parts of Cecil. Harford, and Baltimore Counties east of Interstate 95; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince Georges County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Mississippi Flyway

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, then east along U.S. Highway 30 to the Illinois border.

South Zone: The remainder of Iowa.

Central Flyway

Colorado

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That area of Kansas east of U.S. 283, and generally west of a line beginning at the Junction of the Nebraska State line and KS 28; south on KS 28 to U.S. 36; east on U.S. 36 to KS 199; south on KS 199 to Republic Co. Road 563; south on Republic Co. Road 563 to KS 148; east on KS 148 to Republic Co. Road 138; south on Republic Co. Road 138 to Cloud Co. Road 765; south on Cloud Co. Road 765 to KS 9; west on KS 9 to U.S. 24; west on U.S. 24 to U.S. 281; north on U.S. 281 to U.S. 36; west on U.S. 36 to U.S. 183; south on U.S. 183 to U.S. 24; west on U.S. 24 to KS 18; southeast on KS 18 to U.S. 183; south on U.S. 183 to KS 4; east on KS 4 to I–135; south on I–135 to KS 61; southwest on KS 61 to KS 96; northwest on KS 96 to U.S. 56; west on U.S. 56 to U.S. 281; south on U.S. 281 to U.S. 54; west on U.S. 54 to U.S. 183; north on U.S. 183 to U.S. 56; and southwest on U.S. 56 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Nebraska

Special Teal Season Area: That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

Pacific Flyway

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street-Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Canada Geese

Michigan

MVP—Upper Peninsula Zone: The MVP—Upper Peninsula Zone consists of the entire Upper Peninsula of Michigan.

MVP—Lower Peninsula Zone: The MVP—Lower Peninsula Zone consists of the area within the Lower Peninsula of Michigan that is north and west of the point beginning at the southwest corner of Branch County, north continuing along the western border of Branch and Calhoun Counties to the northwest corner of Calhoun County, then east to the southwest corner of Eaton County, then north to the southern border of Ionia County, then east to the southwest corner of Clinton County, then north along the western border of Clinton County continuing north along the county border of Gratiot and Montcalm Counties to the southern border of Isabella county, then east to the southwest corner of Midland County, then north along the west Midland County border to Highway M–20, then easterly to U.S. Highway 10, then easterly to U.S. Interstate 75/U.S. Highway 23, then northerly along I–75/U.S. 23 and easterly on U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

SJBP Zone is the rest of the State, that area south and east of the boundary described above.

Sandhill Cranes

Central Flyway

Colorado—The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas—That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

Montana—The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

New Mexico—Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area—Those portions of Santa Fe, Torrance and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone—Sierra, Luna, Dona Ana Counties, and those portions of Grant and Hidalgo Counties south of I–10.

North Dakota—

Area 1—That portion of the State west of U.S. 281.

Area 2—That portion of the State east of U.S. 281.

Oklahoma—That portion of the State west of I–35.

South Dakota—That portion of the State west of U.S. 281.

Texas—

Zone A—That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, thence northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, thence north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, thence northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, thence north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, thence east along U.S. Highway 62 to the Texas-Oklahoma State line.

Zone B—That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, thence southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, thence southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, thence southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, thence northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in Junction, thence north along U.S. Highway 83 to

its junction with U.S. Highway 62, 16 miles north of Childress, thence east along U.S. Highway 62 to the Texas-Oklahoma State line, thence south along the Texas-Oklahoma state line to the south bank of the Red River, thence eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C—The remainder of the State, except for the closed areas.

Closed areas—(A) That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, thence southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, thence southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, thence southwest along Interstate Highway 35 to its junction with U.S. Highway 290 East in Austin, thence east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, thence south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, thence south on Interstate Highway 45 to State Highway 342, thence to the shore of the Gulf of Mexico, and thence north and east along the shore of the Gulf of Mexico to the Texas-Louisiana State line.

(B) That portion of the State lying within the boundaries of a line beginning at the Kleberg-Nueces County line and the shore of the Gulf of Mexico, thence west along the County line to Park Road 22 in Nueces County, thence north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, thence west and north along State Highway 358 to its junction with State Highway 286, thence north along State Highway 286 to its junction with Interstate Highway 37, thence east along Interstate Highway 37 to its junction with U.S. Highway 181, thence north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, thence north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, thence south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, thence north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, thence south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, thence south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and thence south and west along the shore of the Gulf of Mexico to the Kleberg-Nueces County line.

Wyoming—

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Big Horn County Unit—Portions of Park and Big Horn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich, Cache, and Unitah Counties and that portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Eden Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Uinta County Area—That portion of Uinta County described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10 (except Unimak Island).

Kodiak Zone—State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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Federal Register

Wednesday,
August 27, 2008

Part III

The President

Proclamation 8278—Women's Equality Day, 2008

Federal Register
Vol. 73, No. 167
Wednesday, August 27, 2008

Presidential Documents

Title 3—

The President

Proclamation 8278 of August 22, 2008

Women's Equality Day, 2008

By the President of the United States of America

A Proclamation

With vision and determination, American women have helped build our great Nation. On Women's Equality Day, we remember the dedication of women who overcame many obstacles in order to secure the right to vote.

The struggle for women's rights is a story of strong women willing to take the lead and pave the way toward equal voting rights for all American citizens. In 1848, a group of determined women came together in Seneca Falls, New York, to proclaim that ''all men and women are created equal,'' and demand suffrage. On August 26, 1920, their voices were finally heard, and the 19th Amendment to the Constitution guaranteed women the right to vote.

As we look back on the journey to women gaining suffrage, we remember the sacrifices of people like Susan B. Anthony and Elizabeth Cady Stanton. More than 160 years after the Seneca Falls Convention, we celebrate the spirit, leadership, and hard work of those pioneering women. We also recognize the women who continue in this tradition by acting as role models in their communities, helping raise the next generation of Americans, leading in their professions, and serving in the Armed Forces protecting our country. These women are continuing on the path set by those who came before them, so that all Americans can realize the great promise of our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 26, 2008, as Women's Equality Day. I call upon the people of the United States to celebrate the achievements of women and observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of August, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4040/P.L. 110–314

Consumer Product Safety Improvement Act of 2008 (Aug. 14, 2008; 122 Stat. 3016)

H.R. 4137/P.L. 110–315

Higher Education Opportunity Act (Aug. 14, 2008; 122 Stat. 3078)

H.R. 6432/P.L. 110–316

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes. (Aug. 14, 2008; 122 Stat. 3509)

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